

**Before the
COPYRIGHT ROYALTY JUDGES
Washington, DC**

In the Matter of Distribution of the 2004-2009 Cable Royalty Funds	Docket No. 2012-6 CRB CD 2004-2009 (Phase II) (Reopened)
In the Matter of Distribution of the 1999-2009 Satellite Royalty Funds	Docket No. 2012-7 CRB SD 1999-2009 (Phase II) (Reopened)
In the Matter of Distribution of the 2000-2003 Cable Royalty Funds	Docket No. 2008-2 CRB CD 2000-2003 (Phase II) (Remand) (Reopened)

**MOTION OF THE SETTLING DEVOTIONAL CLAIMANTS FOR RELIEF FROM
PROTECTIVE ORDER**

The Settling Devotional Claimants (“SDC”) hereby request the Judges to grant them permission to use, in the reopened 2000-2003 cable royalty distribution proceeding, the Nielsen and Tribune data produced by MPAA that underlies the Household Viewing Hours (“HHVH”) reports developed by Mr. Alan Whitt for the SDC. The data in question has been used previously by MPAA and Independent Producers Group (“IPG”) in each of the proceedings captioned above, and by the SDC in the 2004-2009 cable and 1999-2009 satellite proceedings. However, although MPAA relied upon the data and produced it to IPG in the 2000-2003 proceeding, MPAA did not produce it in discovery to the SDC in the 2000-2003 cable proceeding. The SDC seek, under Section IV(D) of the 2004-2009 cable and 1999-2009 satellite protective orders, an order granting an exception allowing the SDC to use this underlying data in the 2000-2003 cable proceeding.

Prior to filing this motion, as required by the terms of Section IV(D) of the protective orders, the SDC notified MPAA in writing of the SDC's request to use the data, and consequently re-produce it to IPG in the 2000-2003 cable proceeding. Ex. 1, Emails between A. Lutzker & G. Olaniran, Mar. 26, 2019 & Apr. 2, 2019, at 1-2. The dispute over the data's use could not be resolved by written and telephonic negotiations among counsel for the SDC and MPAA, and MPAA confirmed that "MPAA opposes SDC's use of the files in question." *Id.*

I. The Underlying Data is Already in the Lawful Possession of All Parties in the 2000-2003 Cable Proceeding.

The data in question is Nielsen cable diary data licensed to MPAA by The Nielsen Company (US), LLC ("Nielsen") for the years 2000 through 2003 on a station sample selected by Marsha Kessler of MPAA, and Tribune data for the programming on the corresponding stations. MPAA produced this data to IPG in the 2000-2003 cable proceeding but not to the SDC, and to both the SDC and IPG in the 2004-2009 cable and 1999-2009 satellite proceedings. All three parties have relied on this data in their respective methodologies in those proceedings. As a result, all three parties (SDC, MPAA, and IPG) remain in lawful possession of the data because the proceedings in which they received it remain ongoing for the purposes of their respective protective orders. Moreover, the SDC previously purchased access to this data, with MPAA's agreement and consent, to allow Mr. Whitt, then a contractor for MPAA, to prepare the devotional Household Viewing Hours ("HHVH") reports on which the SDC now seek to rely. A more detailed history of the data follows.

As part of developing MPAA's distribution methodology in the 2000-2003 cable proceeding, Ms. Kessler, MPAA's Vice President of Retransmission Royalty Distribution, commissioned Nielsen studies based on a sample of stations she selected and analysis of where viewing of those stations would be by distant subscribers. *See* Ex. 2, Direct Testimony of

Marsha E. Kessler, Dckt. No. 2008-2 CRB CD 2000-2003 (Phase II), May 30, 2012, at 11-14.

At Nielsen, Senior Vice President Paul Lindstrom prepared the commissioned 2000-2003 data and provided it to MPAA pursuant to a Nielsen Service Agreement between MPAA and Nielsen. *See* Ex. 3, Declaration of Paul B. Lindstrom, June 19, 2014, at ¶¶ 4-7. During the course of the initial 2000-2003 cable proceeding, MPAA used the Nielsen and Tribune data and produced it to IPG in discovery, which was contesting the distribution of royalties against MPAA in the Program Suppliers category of that proceeding. *See* Ex. 4, MPAA Production of RESTRICTED Documents, June 21, 2012, at 2-3; *see also* Amended Order Denying MPAA Motion to Strike Testimony of IPG Witness, Dr. Robinson, Dckt. Nos. 2012-6 CRB CD 2004-2009 (Phase II) & 2012-7 CRB SD 1999-2009 (Phase II), July 30, 2014, at 3 (“Order Denying Motion to Strike”). MPAA did not produce the data files to the SDC, even though as a party in the proceeding, the SDC would have been entitled to receive it. *See* Amended Joint Order on Discovery Motions, Dckt. Nos. 2012-6 CRB CD 2004-2009 (Phase II) & 2012-7 CRB SD 1999-2009 (Phase II), July 30, 2014, at 8-10.

In 2006, the SDC approached MPAA and MPAA’s consultant, Mr. Whitt, to purchase devotional HHVH reports based on the Nielsen and Tribune data. Ex. 5, Rebuttal Testimony of SDC Witness Alan G. Whitt, Dckt. No. 2008-2 CRB CD 2000-2003 (Phase II), May 14, 2013, at 3-5. The SDC paid both MPAA and Mr. Whitt’s company, IT Processing LLC, for access to the data and preparation of the reports. Ex. 6, Emails between A. Lutzker, M. Kessler, & A. Whitt, Feb. 15, 2005 to Nov. 30, 2006. The HHVH reports summarized the distant viewing of certain devotional programs on certain distantly retransmitted cable signals. The SDC offered the devotional HHVH reports prepared by Mr. Whitt as part of their rebuttal case, but the Judges excluded the evidence as untimely. Final Distribution Order, *in re Distribution of the 2000-2003*

Cable Royalty Funds, Dckt. No. 2008-2 CRB CD 2000-2003 (Phase II), 78 FR 64984, 65004 (Oct. 30, 2013). Because the SDC did not request production from MPAA in the 2000-2003 cable proceeding (as the SDC were aware that MPAA had already produced the underlying data to IPG), the underlying data was not produced separately to the SDC in that proceeding.

Both MPAA and IPG subsequently used the same Nielsen and Tribune data in the 2004-2009 cable and 1999-2009 satellite distribution proceedings. *See* Order Denying Motion to Strike, at 5. In those proceedings, the SDC requested production of the data, and MPAA complied following a motion to compel. Ex. 7, MPAA Production of Documents to SDC, Dckt. Nos. 2012-6 CRB CD 2004-2009 (Phase II) & 2012-7 CRB SD 1999-2009 (Phase II), Aug. 11, 2014, at Ex. A. IPG also produced the same data, which it had previously received from MPAA in the 2000-2003 cable proceeding. *See* Ex. 8, IPG Responses to Document Requests and Follow-up Document Requests of SDC, Dckt. No. 2012-7 CRB SD 1999-2009 (Phase II), Aug. 11, 2014, at 13 (producing “all data from ‘IPG, TV Data [Tribune], and Nielsen Media Research’ that Dr. Robinson relied on in the Testimony.”). Both productions to the SDC were subject to the protective orders in the 1999-2009 satellite and 2004-2009 cable proceedings.¹ The protective orders do not expressly permit the use of protected information in proceedings other than the proceeding in which the information is produced. *See* Protective Order, *in re Distribution of 1999-2009 Satellite Royalty Funds*, Dckt. No. 2012-7 CRB SD 1999-2009 (Phase II), July 1, 2014, at § IV(C); Protective Order, *in re Distribution of 2004-2009 Cable Royalty Funds*, Dckt. No. 2012-6 CRB CD 2004-2009 (Phase II), July 1, 2014, at § IV(C) (“The Receiving Party may use Restricted material ... in any portion of this proceeding”). But

¹ Although a separate protective order was issued in each proceeding, the protective orders are substantially identical, and the proceedings were subsequently consolidated.

Section IV(D) of the protective orders provides a procedure to seek a modification to the protective order to permit disclosures not otherwise authorized.

II. The Judges Should Permit the SDC to Use the Underlying Data in the 2000-2003 Cable Proceeding.

The Judges have already addressed the propriety of a party using the same data at issue in a proceeding other than the one in which it was originally produced. In her written direct statement in the 2004-2009 cable and 1999-2009 satellite proceedings, IPG's witness Dr. Laura Robinson used the data that MPAA had produced in the 2000-03 cable proceeding. MPAA filed an unsuccessful motion to strike Dr. Robinson's testimony that relied on the data, arguing that IPG could not use restricted data it received in discovery in the separate 2000-2003 proceeding. The Judges denied that motion, concluding that IPG used materials "lawfully in its possession that it would inevitably receive in discovery. The imposition of a sanction in these circumstances would not further the legitimate goals of the Protective Order—*i.e.*, preventing unfair competitive disadvantage to the producing party's business, and respecting the terms of an underlying agreement through which the producing party obtained the information." Order Denying Motion to Strike, at 6.

The Judges should make a similar finding here. Both the SDC and IPG remain in lawful possession of the data underlying the devotional HHVH reports. And, just like in the 2004-2009 cable and 1999-2009 satellite proceeding, MPAA used and produced the same data in the 2000-2003 proceeding where the SDC now seek to use it.

Moreover, although the data was not in fact produced to the SDC during the course of the original 2000-2003 cable proceeding, the SDC and its counsel and expert witnesses were authorized recipients and entitled to receive the data under the protective order in the 2000-2003 cable proceeding. Protective Order, *in re Distribution of 2000-2003 Cable Royalty Funds*, Dckt.

No. 2008-2 CRB CD (Phase II), July 10, 2012, at ¶ 4 (“Protected Materials shall be disclosed only to a ‘Reviewing Party’ for such materials. ‘Reviewing Party’ shall be defined as: outside counsel of record in this Proceeding ... and any outside independent consultant or expert”). As the Judges explained, the Protective Orders were intended to prevent broader dissemination of Protected Materials to parties outside the purview of the confidentiality restrictions they imposed. Because IPG is already a recipient of the underlying data in the 2000-2003 cable distribution proceedings, and the SDC are authorized recipients, there is no actual harm in allowing the SDC to utilize the data, which would not be disseminated to any new parties or in any new proceeding as a result. It would simply be re-used in the same 2000-2003 proceeding where it was first used by MPAA—the party now objecting to its use. In addition, any use or production of the data in the 2000-2003 cable proceeding would remain subject to the protective order in that proceeding, which the Judges have already ruled did not prevent IPG from using and producing it to the SDC.

The Judges also held that they “see no valid reason to treat the Nielsen viewing data differently in the two captioned proceedings [2004-2009 cable proceeding and 1999-2009 satellite proceeding].” Order Denying Motion to Strike, at 6. In this instance, there is also no reason to treat the data differently in the 2000-2003 cable proceeding. The relief sought would only authorize the SDC to use the data in a proceeding between two parties (IPG and the SDC), both of whom are already lawfully in possession of that data and have used it in either the same or a parallel proceeding.

There is also no “data poaching” concern, particularly because *the SDC already paid for and received authorization from MPAA to receive the devotional HHVH reports themselves, and have already received and utilized the underlying data in the other proceedings.* On this point,

the Nielsen Service Agreement, which is the basis asserted by MPAA for the data's protected status, did not constrain the Nielsen data's use to only a single specific proceeding, but allowed its use in plural "proceedings before the Copyright Royalty Board." Ex. 3, at Ex. A, Nielsen Service Agreement, at ¶ 3.1(c), Amendment, ¶ 4. The Judges acknowledged that the equities weighed in favor of allowing use of the Nielsen data in more than one proceeding because doing so would not violate the Nielsen Service Agreement and would not cause any "business or competitive harm of the kind that the Protective Order is intended to prevent." Order Denying Motion to Strike, at 4. This consideration is even stronger today; with the data at issue being 16-19 years old, it is unlikely to cause any harm to any party if it is re-used by parties who already possess it. Regardless, there is no need for the Judges to reach the question of the scope the Nielsen Service Agreement authorized for the use of its data, as the SDC only seek authorization to use the data in the 2000-2003 cable Phase II Proceeding, which is the proceeding in which it was originally used.

Finally, there is a substantial need for the SDC to use the data underlying the HHVH reports. According to the Judges, "[w]ithout a proper foundation laid for introduction of the HHVH Reports on which Mr. Sanders relied, and without the underlying data in the record made available to IPG, the HHVH Report cannot serve to confirm any other relative valuation approach." Order Reopening Record, Dckt. No. 2008-02 CRB CD 2000-2003 (Phase II) (Remand), Mar. 4, 2019, at 6. As was explained in the re-opened 2004-2009 cable and 1999-2009 satellite proceedings, the SDC conducted an extensive search for additional local and distant viewing data, including for the years 2000-2003, and were unable to locate any additional sources of data that were not presented to the Judges. Ex. 9, Excerpts from Hearing Transcript, Dckt. Nos. 2012-6 CRB CD 2004-2009 (Phase II) & 2012-7 CRD SD 1999-2009 (Phase II),

Apr. 9-10, 2018, at 182:7-24 (Sanders) (after multiple calls with Nielsen, “in years 1999 through 2003 ... [Sanders] was informed that additional data from that source was just simply not available”); 310:6-311:14 (Lindstrom) (explaining that due to transitions at Nielsen, data retention and data sets changed after 2008 and collecting additional distant viewing data was “impossible given the time and money that could be done with what the Judges were looking for”). In short, there is no other distant viewing data for the years in question that is accessible to the SDC.

III. Conclusion

For the foregoing reasons, the SDC request that the Judges permit the SDC to use the Nielsen diary data and associated Tribune data underlying the 2000-2003 devotional HHVH reports in the reopened 2000-2003 cable distribution proceeding, and permit the SDC to produce that data to IPG in discovery in the same proceeding, subject to the restrictions set forth in the 2000-2003 Protective Order, 1999-2009 Protective Order, and 2004-09 Protective Order.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on April 12, 2019, a copy of this Motion for Relief from Protective Order was electronically filed and served on the following via the eCRB system or email:

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Exhibit 1

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Cc: "MacLean, Matthew J." <matthew.maclea@pillsburylaw.com>
Subject: RE: SDC Use of Nielsen Data Files to verify 2000-2003 HHVH Reports

Arnie –

As we informed you a few times before your email below, MPAA opposes SDC's use of the files in question because, among other things, per the Protective Order which governs the 1999-2009 Satellite/2004-2009 Cable Proceeding, SDC's use of said files is limited to that proceeding. Also, we dispute some of the assertions you make below and we will address those issues and others in response to the motion you intend to file.

Greg



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Subject: SDC Use of Nielsen Data Files to verify 2000-2003 HHVH Reports

Greg – As I mentioned, the Judges have now set a scheduling order in the reopening of the 2000-2003 remand, and we have until April 12 to file a motion if we haven't resolved SDC's use of the files underlying the 2000-2003 HHVH reports. In that context, I've asked you to reconsider MPAA's opposition, and I want to put a number of points before you to help us get to a reasonable result.

1. As previously noted, all the files were are addressing were used by MPAA in the 1999-2009 Satellite/2004-2009 Cable Proceeding, and produced to both IPG and SDC in discovery. So both IPG and SDC have in their possession the files that can be used to verify the 2000-2003 HHVH reports.
2. Additionally, the very same files were used by MPAA and produced by you to IPG in the 2000-2003 Program Supplier category portion of the case. Because SDC did not formally make demand of discovery from MPAA at that time, we never received copies of the files. However,

based on the ruling of the Judges in the 1999-2009 proceeding, as a party in the 2000-2003 Phase II Proceeding, we should have been entitled to them as well. The issue didn't come up originally, but the Judges' ruling in 1999-2009 clearly justifies our access here.

3. You have suggested that MPAA does not have authority to release the files, which belong to Nielsen. There are several reasons why we think that is not the case.
 - a. First, in 2006, SDC bought and paid for rights to the HHVH data from both MPAA and Alan Whitt. The payments exceeded \$22K. The ability to verify that the HHVH reports are accurate was not addressed by either SDC or MPAA, but under the circumstances of the CRB proceedings, implicit in the purchase.
 - b. Second, when the Judges dealt with the use of the same files in the 1999-2009 case, which IPG had access from through the 2000-2003 proceeding, the Judges affirmed that the files were useable in CRB Proceedings. And as long as they were marked Confidential, Subject to the Protective Order, the licensing agreement MPAA had with Nielsen (Nielsen Services Agreement dated as of June 1, 2011), did not restrict the use of the data to 2000-2003 Phase II Cable. Here we propose using the data in the 2000-2003 Proceeding, where it has already been used by MPAA and IPG.
 - c. Third, we are not proposing to aggregate the data in any new way. We simply want to be able to use the files to verify the HHVH results. The HHVH files are already in the proceeding. The procedure that Alan Whitt used to create the HHVH has already been attested to in the 1999 proceeding, and that testimony can be incorporated by designation.
4. We understand your concern about not wanting to further open the door to use of information in a proceeding where it was not produced. This case does not present that question, because we only want your consent to use the information in a proceeding where MPAA already produced it. If we have to get resolution from the Judges, they might further open the very door that you are concerned about, as they did in their order on your motion to strike Dr. Robinson's testimony. See attached order. Unlike IPG, we have always been very careful about complying with protective orders, and have come to you to try to work out a reasonable resolution that does not involve the use of data in any proceeding other than the one in which it was produced.
5. In light of the Judge's order reopening the proceeding, we believe the case will be greatly expedited by SDC's use of the underlying files to confirm the HHVH results. In that context, the files will be treated as confidential or restricted, and not made part of any public record.
6. With this background, because the files are in fact in IPG's and SDC's possession, and because we're dealing with data 16-19 years old, which to our knowledge are not otherwise available, we think it appropriate that MPAA should not assert any objection.

If you agree to SDC's use of the files, we will not file a motion. However, in light of the short time table set by the Judges, we have to know one way or another very soon. In that context, **please let us know as soon as possible, and not later than next Monday (April 1) whether we have MPAA's consent.** With a deadline of April 12, we'll have to prepare and file motion if we cannot get your support. We hope that won't be necessary and that you will not object.

Arnie

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Exhibit 2

**Before the
COPYRIGHT ROYALTY JUDGES
Washington, D.C.**

In the Matter of

Distribution of the

2000, 2001, 2002, and 2003 Cable Royalty Funds

**Docket No. 2008-2 CRB CD 2000-2003
(Phase II)**

Direct Testimony of

Marsha E. Kessler

May 30, 2012

DIRECT TESTIMONY OF MARSHA E. KESSLER

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Declaration

DIRECT TESTIMONY OF MARSHA E. KESSLER

I. BIOGRAPHICAL INFORMATION

My name is Marsha E. Kessler. Prior to my retirement in August 2010, I served as Vice-President, Retransmission Royalty Distribution, at Motion Picture Association of America ("MPAA"), a position I held, under various titles, for about 28 years. Prior to working for MPAA, I was a founding member of the Copyright Office's Licensing Division, the division responsible for collecting cable royalties under Section 111 of the Copyright Act. **Section 111**, also known as the "statutory" or "compulsory" license, governs cable system royalty fee obligations for the carriage of broadcast signals. At the Licensing Division, I initially was an "Examiner" of **Statements of Account ("SOAs")** – the documents cable operators file to substantiate their royalty payments. Later, I became a "Lead Examiner." As a Lead Examiner, I advised colleagues as they encountered difficulties with individual SOAs. I have a baccalaureate degree in Spanish from Catawba College in Salisbury, North Carolina and a master's degree in Spanish Language and Literature from the University of Maryland, College Park, Maryland.

In order to verify the accuracy of a royalty payment, examiners confirmed that the cable operator had filed the correct SOA form and had supplied all other required SOA information (*e.g.*, numbers of subscribers served, monthly rates, stations retransmitted, revenues, activated channels, *etc.*). In the case of larger systems, we confirmed that the royalty payment reflected correct application of the

provisions of the statutory license in conjunction with the former signal carriage rules of the Federal Communications Commission ("FCC"). If all those conditions were met, the filing was accepted.

If an SOA appeared deficient (for example, if the system omitted information or miscalculated the royalty), examiners wrote to the system and sought correction of the matter.

I left the Licensing Division in 1982 and began working for MPAA, where I oversaw the distribution of cable and satellite retransmission royalties (under Sections 111 and 119 of the Copyright Act) until my retirement in 2010. I worked closely with information technology contractors and with financial, legal and statistical professionals to provide fair and efficient distribution of royalties among our represented claimants. In addition to overseeing royalty distributions, I assisted MPAA-represented program owners in the annual filing of their royalty claims with the Copyright Royalty Board ("CRB"). I also supervised MPAA's statutory license enforcement efforts. This supervision included training, reviewing the work of, and advising staff who review SOAs for compliance with the statutory license. Moreover, I made recommendations regarding potential areas for enforcement investigation and on other matters that cropped up during the course of an investigation.

I previously testified before the Copyright Royalty Judges ("Judges") in Phase I of this proceeding, and a copy of my written direct testimony in that matter

is attached to my Phase II testimony here and incorporated as Appendix A.¹ I also provided testimony to the Judges in the recent 2004-2005 cable Phase I proceeding. In addition to testifying before the Judges, I have testified numerous times before the Copyright Royalty Tribunal, the Copyright Arbitration Royalty Panel, and the Canadian Copyright Board on matters related to statutory license royalties. I have also appeared before the Intellectual Property Subcommittee of the House Judiciary Committee in a matter connected with satellite royalty rates.

II. PURPOSE OF TESTIMONY

First, I will describe the nature and extent of the MPAA-represented Program Suppliers' claim in this proceeding, including the different types of programs that comprise our claim. Second, I will explain MPAA's process for identifying and certifying ownership of each of the program titles claimed by MPAA in this proceeding. Finally, I will describe my role in the Nielsen Studies which the MPAA-represented Program Suppliers are presenting as evidence in this proceeding.

¹ In my 2000-2003 Cable Phase I testimony, I explained in detail how Section 111 royalties are collected by the Copyright Office and provided information regarding cable systems' SOA filing requirements, including descriptions of key elements of the SOAs, types of cable systems, types of distant signals, and the methodology by which cable operators calculate royalties. *See* Appendix A.

III. INTRODUCTION

Beginning with the first royalty distribution proceeding addressing the allocation of 1978 cable royalties, MPAA has been the *de facto* Phase I representative of all Program Supplier claimants – the owners of nonnetwork series, movies and specials which air on commercial television broadcast stations retransmitted by cable systems. In Phase II proceedings, MPAA represents those program suppliers who have agreed to representation by MPAA (“MPAA-represented Program Suppliers”). A listing of MPAA-represented Program Suppliers is set forth in Appendix B.

MPAA-represented Program Suppliers include not only the major U.S. production studios, but also dozens and dozens of smaller producers and syndicators from both the U.S. and many parts of the world – all of whom have filed claims seeking a share of the pool. For the 2000-2003 royalty years, MPAA directly represents approximately 100 claimants each year. Because many of these MPAA-represented claimants filed joint claims, have multiple subsidiaries, and include royalty collection agents, MPAA directly and indirectly represents as many as 1,400 claimants per royalty year.

Merely describing our programs as series, movies and specials understates the width and breadth of MPAA-represented Program Suppliers’ claim. Our programs include game shows, sitcoms, news magazines, interview shows, sports

shows and sporting events, awards shows, health and fitness shows, and animal shows as well as similar works in Spanish. The following is a brief example:

- **Live-action and/or animated series and sitcoms**, such as: FRIENDS (Warner Bros. Domestic Television Distribution), 3RD ROCK FROM THE SUN (Carsey-Werner-Mandabach Productions, LLC), and THE SIMPSONS (Fox Entertainment Group, Inc.).
- **Movies**, such as: AFRICAN QUEEN (Carlton International), A FISH CALLED WANDA (Metro-Goldwyn Mayer Studios, Inc.), and YOUNG GUNS II (Morgan Creek International, Inc.).
- **Game shows**, such as: FAMILY FEUD (FremantleMedia NA) and JEOPARDY! (Jeopardy Productions, Inc.).
- **Sports shows and sports-related programs**, such as: BABE WINKELMAN'S GOOD FISHING (Babe Winkelman Productions, Inc.), GEORGE MICHAEL SPORTS MACHINE (King World Productions, Inc.), THIS WEEK IN BASEBALL (Major League Baseball Properties, Inc.), WOMEN OF WRESTLING (MG/Perin) and SUPER TUESDAY (World Wrestling Entertainment, Inc.).
- **Awards shows and pageants**, such as: FIFTH ANNUAL FAMILY FRIENDLY AWARDS (dick clark productions, inc.), MISS HAWAIIAN TROPIC INTERNATIONAL FINALS (Bennett Productions, Inc.) and GOLDEN GLOBE AWARDS (dick clark productions, inc.).

- **News shows**, such as: HEADLINE NEWS (Cable News Network LLP), MCLAUGHLIN GROUP (Oliver Productions, Inc.) and WALL STREET JOURNAL REPORT (NBC Universal, Inc.).
- **Health and fitness shows**, such as: WAI LANA YOGA (Zia Film Distribution LLC), plus an almost unlimited number of infomercials promoting exercise equipment and diet plans.
- **Animal shows**, such as: WILD ABOUT ANIMALS (Steve Rotfeld Productions, Inc.), ANIMAL RESCUE (Telco Productions, Inc.) and PET KEEPING WITH MARC MORRONE (Martha Stewart Living Omnimedia, Inc.).
- **Interview and talk shows**, such as: OPRAH WINFREY (King World Productions, Inc.) and MARTHA STEWART LIVING (Martha Stewart Living Omnimedia, Inc.).

All of these and many more types of programs fall under the MPAA-represented Program Suppliers' umbrella. Relative to Phase II claims, MPAA-represented Program Suppliers not only have the largest number of programs, they also have an extremely diverse array of programs. An alphabetical list I prepared of all of the program titles that MPAA-represented Program Suppliers are claiming in this proceeding for each royalty year is attached to my testimony as Appendix C. Taken together, this list includes approximately 11,600 MPAA-claimed titles for the four-year period.

Definitions

Before going on, it might be helpful to provide definitions of some terms commonly used in Section 111 discussions.

TV station: A broadcast facility licensed by the FCC to air on a specific channel in a certain geographic area. An example of a TV broadcast station is KMSP, channel 27, licensed to Minneapolis. Although there are exceptions, call signs of stations located in the western U.S. begin with the letter "K" (*e.g.*, KOMO in Seattle) and call signs of stations located in the eastern U.S. begin with the letter "W" (*e.g.*, WJLA in Washington, D.C.). TV stations are sometimes referred to as "over-the-air television stations" or "free TV." Stations are also referred to as "signals."

Cable network: A facility which does not broadcast itself, but which provides programming directly to cable systems. An example of a cable network is TNT. Programming on cable networks is *not* compensable under Section 111.

Network station, Independent station; Network and Nonnetwork programming: In the context of Section 111, **Network TV stations** are those commercial broadcast stations affiliated with the ABC, CBS and/or NBC networks only. All other commercial stations are considered **Independent stations**.

Network programming refers to programming disseminated by the ABC/CBS/NBC networks to their affiliated TV stations. ABC/CBS/NBC network programming is *not* compensable under Section 111. **Nonnetwork programming**

refers to programming on TV stations that the stations acquire themselves, *i.e.*, programming not disseminated to them by the ABC, CBS, or NBC networks. Nonnetwork programming is the only type of programming compensable under Section 111.

Transmission versus retransmission: TV stations broadcast (*i.e.*, **transmit**) works over the air to the public which receives the programming for free. Section 111 refers to this as the primary transmission. Cable systems simultaneously **re-transmit** stations' signals to their subscribers, who pay fees for the service. Section 111 refers to this as the secondary transmission.

Local Market (or Local Service Area): The geographic area within which a TV station is entitled to insist that its signal be retransmitted by a cable system in accordance with the FCC "must carry" rules. A cable system located within a particular television market must carry all stations that are licensed (*i.e.*, local) to the market.

Distant Station (Signal): When a cable system retransmits a broadcast station outside of the station's local market, the station is referred to as a distant station or signal. For example, when Verizon retransmits WGN-Chicago to the District of Columbia TV market, WGN is deemed a distant signal in the District of Columbia.

Local Station (Signal): When a cable system retransmits a station to subscribers located *within* that station's market, the station is called a "**local**".

signal. For example, WDCA, channel 20, licensed to the District of Columbia, is considered a local signal in Washington, D.C.

Retransmission royalties: Section 111 royalties cable operators pay in order to retransmit TV station programming to subscribers.

IV. MPAA'S CLAIM VERIFICATION AND TITLE CERTIFICATION PROCESS

In the years that I worked at MPAA, we developed and maintained internal standards to ensure that only those individuals or entities who were truly entitled to claim retransmission royalties would be able to assert a claim for those royalties through MPAA. To be a MPAA-represented claimant, a rights-holder must satisfy the following requirements: (1) file a timely claim for retransmission royalties each year with the Copyright Office; (2) provide MPAA with an "as-filed" copy of that claim, demonstrating that it was submitted to the Office in a timely manner; and (3) have a valid representation agreement with MPAA. All of the MPAA-represented claimants listed on Appendix B to my testimony satisfied these requirements.

Relative to 2000-2003 for those parties who satisfied the requirements, MPAA proceeded to identify the program titles for which those entities were entitled to claim Section 111 royalties. This process included analyzing the program title information submitted by MPAA-represented claimants and performing independent research to identify additional program titles potentially owned by our represented claimants.

Once MPAA identified the program titles we believed were attributable to a particular claimant, we prepared a certification report listing those titles and sent it to the claimant, along with a certification form for the claimant to sign verifying that party's right to claim the works listed on the certification report.

Additionally, each claimant was required to strike through any titles for which it was not authorized to claim retransmission royalties and to then certify its ownership of the remaining titles. After review, MPAA's represented claimants returned their executed certifications to my attention at MPAA. I reviewed the executed certifications and ensured that any corrections made to the report were accurately adjusted by MPAA. I performed the tasks just described on a royalty year-by-royalty year basis. The list of MPAA-represented claimants' titles in Appendix C of my testimony were all subject to this certification process.

V. MPAA-REPRESENTED PROGRAM SUPPLIERS' NIELSEN STUDIES IN THIS PROCEEDING

In this proceeding, MPAA-represented Program Suppliers will be presenting studies of viewing to distantly retransmitted, nonnetwork programs undertaken by Nielsen. In this part of my testimony, I will explain my role in the development of these studies.

Viewing, as measured by Nielsen, is the predominant standard by which all television programming is commercially evaluated. It is to Nielsen, therefore, that MPAA turns for assistance in quantifying the consumption of distant signal programming.

To begin the process, I (1) selected a sample of stations retransmitted by cable systems, (2) performed an analysis to determine the local market (county) for each station in the sample, and (3) sent both the sample stations and the related local county analysis to Nielsen for Nielsen to extract related viewing by distant subscribers. Below, I describe the first two steps in the process. Nielsen's Paul Lindstrom will describe the methodology employed by Nielsen to obtain the distant viewing information for 2000-2003 ("Nielsen Studies").

A. Selection Of Sample Stations

Prior to commissioning each of the Nielsen Studies I requested a report from Cable Data Corporation ("CDC")² showing all stations distantly retransmitted by cable systems for each of the years in question. The reports provided detailed information on each station, including number of distant subscribers, estimated royalties attributed to the station, station type, and whether the data were attributable to Form 1-2 systems (the so-called smaller systems whose revenues fall below a certain threshold) or to Form 3 systems (the so-called large systems whose revenues are above the threshold). Using the CDC Form 3 SOA data, I identified and prepared a list of sample stations for each year. We relied on Form 3 data related to commercial stations to select the samples because Form 3 royalties and subscribers account for the lion's share of all cable royalties

² CDC is a Mount Airy, Maryland company who specializes in collecting data reported by cable systems on their SOAs and producing regular and customized data reports utilizing SOA data.

and distant subscribers – roughly 91% - 93% (subscribers) and 96% - 97% (royalties) for each year.

The chart below provides data related to the percentage of distant subscribers and share of royalties represented by each year's sample. The data reflect the retransmission of commercial stations only, as the allocation of funds for works on Canadian, Mexican and public television stations is not at issue in this proceeding.

Royalty Year	Number of Stations	Percentage of Total Distant Subscribers Covered by Sample Stations	Percentage of Total Royalties Generated By Sample Stations
2000	81	75%	84%
2001	97	85%	90%
2002	122	85%	90%
2003	125	86%	86%

The lists in Appendix D are the stations in my 2000-2003 samples.

B. Local County Analysis For Commercial Stations

Standard Nielsen ratings – which are measured on a county-by-county basis – do not differentiate between distant and local viewing. The next step, therefore, was MPAA's identification for Nielsen of the counties in which cable household ("CHH") viewing to each sample station would be considered **local**. Thus, when performing its estimates, Nielsen could ignore data from **local** counties and focus its measurements on viewing from **distant** counties only.

MPAA based identification of the counties local to each 2000-2003 sample station on the FCC signal carriage rules,³ and we refer to this task as "county analysis." We employed the following general steps: first, we identified the counties that constituted each station's Designated Market Area ("DMA"). All such counties are considered local for that station. Second, we identified the counties in which each station was deemed "**significantly viewed**" ("SV") per the FCC. All such counties are considered local for that station pursuant to the FCC's signal carriage rules. Lastly, we looked at other factors that would qualify a county as local to the station in question. Appendix F to my testimony provides an illustration of how the local county analysis was performed for 2000-2003.

After completing the local county analysis, we then provided Nielsen with a listing of those counties that we identified as local for each sample station. As Mr. Lindstrom's testimony should confirm, Nielsen excluded viewing from cable households located in each station's local counties with the result that only *distant* cable viewing is shown in the studies.

C. Commissioning The 2000-2003 Nielsen Studies

After I selected the sample stations and worked with my staff at MPAA to complete the local county analysis for each year, I delivered these items to Nielsen and requested special studies for each of the 2000-2003 years estimating

³ The signal carriage rules, now rescinded, were found at Sections 76.57 through 76.63 of the regulations of the FCC. 47 C.F.R. §§ 76.57-76.63 (1976), attached as Appendix E.

distant viewing to the selected stations by cable households. This request concluded my participation in the Nielsen Studies.

Thank you for the opportunity to present the information in this testimony. I hope it will be helpful in the Judges' deliberations.

DECLARATION OF MARSHA E KESSLER

I declare under penalty of perjury that the foregoing testimony is true and correct, and of my personal knowledge.

Executed on May 29, 2012

Marsha E. Kessler
Marsha E. Kessler

Exhibit 3

DECLARATION OF PAUL B. LINDSTROM

I, Paul B. Lindstrom, declare:

1. I am over 18 years of age and employed as a Senior Vice President with Nielsen. My office is located at 85 Broad Street, New York, NY, 10004. I am authorized to submit this declaration on behalf of Nielsen.

2. I have personal knowledge of the following facts and, if called and sworn as a witness, could and would competently testify thereto.

3. Nielsen is a global provider of information services for the media and entertainment industries. My responsibilities at Nielsen include audience measurement of television viewing. My expertise includes custom design for measuring television audiences.

4. MPAA commissioned Nielsen to conduct a study of television programs that aired on distantly retransmitted television stations based on diaries recorded by Nielsen homes for the 2000, 2001, 2002, and 2003 cable royalty years ("2000-2003 Cable Diary Data").

5. Attached hereto as Exhibit A is a true and correct copy of the Nielsen Service Agreement ("Agreement") between Nielsen and the Motion Picture Association of America, Inc. ("MPAA"), dated June 1, 2011, and amended May 1, 2012. Exhibit A has been redacted to remove confidential provisions that are not germane to these proceedings.

6. Pursuant to the Agreement, Nielsen retains ownership of any data, custom analyses, or services provided to MPAA by Nielsen ("Nielsen Information"). *See* Exhibit A, ¶ 1.1(a). MPAA has been granted a limited, non-exclusive license to use the Nielsen Information. *See id.* at ¶ 1.1(b). The Agreement makes it clear that the Nielsen Information is both confidential and proprietary, and its use in connection with proceedings before the Copyright Royalty Board ("CRB") is only permitted subject to Protective Order. *See id.* at ¶ 3.1(c). The Agreement contains template agreements and stipulations relating to the use of Nielsen Information in connection with CRB proceedings that illustrate its confidential, proprietary nature. *See id.* at ¶ 3.1(c) and Exhibit A.

7. On Nielsen's behalf, I prepared the 2000-2003 Cable Diary Data. Pursuant to the terms of the Agreement, MPAA is a licensee of the 2000-2003 Cable Diary Data. Because of the proprietary and confidential nature of the data, I executed an Affidavit on July 13, 2012 certifying that the 2000-2003 Cable Diary Data should be treated as Protected Materials.

8. To the best of my knowledge, information, and belief, IPG has not obtained a license from Nielsen to use any of the Nielsen Information, including the 2000-2003 Cable Diary Data, in connection with the ongoing 2004-2009 cable and 1999-2009 satellite Phase II proceedings, or otherwise.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 19th day of June, 2014, at New York, NY

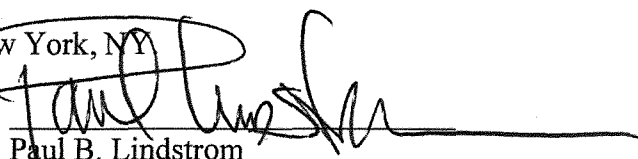

Paul B. Lindstrom

EXHIBIT A

NIELSEN SERVICE AGREEMENT

This Agreement ("Agreement"), dated as of June 1, 2011, by and between The Nielsen Company (US), LLC, a Delaware limited liability company ("Nielsen"), with offices at 770 Broadway, New York, NY 10003, and Motion Picture Association of America, Inc., a New York not-for-profit corporation ("Client"), with offices at 1600 Eye Street, NW, Washington, DC 20005, governs the provision and use of data, information, technology and related services (the "Service") provided to Client by Nielsen.

Article 1. Scope of Service

1.1 Services; Ownership and License. Nielsen shall deliver the Services set forth in the Schedule(s) attached hereto for use solely by Client in accordance with this Agreement. The data and information included in Services are referred to as "Nielsen Information". Client agrees that:

- (a) Nielsen retains ownership of the Services and all Nielsen Information contained therein.
- (b) Client is granted a limited, non-exclusive license to use the Services as set forth in this Agreement.
- (c) As applicable, the National Reference Supplement and/or the Local Reference Supplement (as amended by Nielsen from time to time, each a "Reference Supplement") is/are incorporated herein by reference and made part of this Agreement. Attention is directed to the definitions, reminders and information concerning sampling methods, sample size, statistical interpretation and other related matters and information contained or referred to in the Reference Supplements.

Article 2. Fees and Taxes

Article 3. Use of Services

3.1 Uses and Disclosure of Services. The Services are made available to Client for its confidential internal use within the United States of America in connection with the conduct of its activities as the representative of producers and syndicators of syndicated series, movies, and specials who are entitled to receive royalties under the cable and satellite compulsory licensing plans of 17 U.S.C. § 111 and § 119 (each, a "Claimant"). Client may only use the Services as a component of Client's methodology for allocating royalties attributable to television series, specials and movies aired by certain free, over-the-air television broadcast stations which are in turn retransmitted by cable systems and satellite carriers; except that

- (a) Client may describe the Nielsen Information (and its use in Client's methodology) to Claimants;
- (b) Client may disclose "Limited Excerpts" (meaning Nielsen Information that is not of sufficient quantity or quality as to have independent commercial value, as determined by Nielsen in its sole discretion) to those accounting and/or legal professionals who audit Client's royalty distributions as part of such audit; and
- (c) Client may use limited portions of the Nielsen Information in proceedings before the Copyright Royalty Board ("CRB"), or any appellant proceeding concerning a CRB finding; provided that, in each case, (i) any Nielsen Information used for such purpose is marked as "Nielsen Confidential Information"; (ii) Client shall first obtain agreements of confidentiality, protective orders and (where appropriate) evidentiary stipulations acceptable to Nielsen (similar in form and substance to that attached as Exhibit A) that acknowledges that the Nielsen Information is proprietary and confidential information of Nielsen; (iii) neither Nielsen nor any Nielsen officer, director, employee, agent, or other individual will be required to appear in any manner concerning the Nielsen Information and the methodology utilized by Nielsen will not be an issue that is contested in the parties; and (iv) Nielsen shall not be considered a party to any CRB or appellate proceeding.

(d) Client may not claim Nielsen as the source of any independently generated information. Under no circumstances may the Nielsen Information be used for media buying, planning or selling, or for any purpose other than as set forth in this paragraph.

3.2 Restrictions. Client shall not decompile, reverse engineer, disassemble, sublicense, distribute, dispose of, modify, adapt or translate, or remove any proprietary or copyright legend from, any Service or Nielsen Information. Client shall not provide the Nielsen Information to any third party, including but not limited to, consultants, software solutions providers, third party processors, computer service bureaus, value added processors, data modeling or awareness tracking companies and/or media audit companies. Notwithstanding the foregoing, Client may provide Nielsen Information to a consultant retained and/or employed by Client ("Consultant") for Consultant's use solely in providing services to Client provided that, prior to delivery of the Nielsen Information, the Consultant executes and delivers to Nielsen a "Consultant Confidentiality Agreement" provided by Nielsen. Client agrees to provide Nielsen with the name and contact information of any Consultant Client intends to utilize under the terms of this paragraph not less than thirty (30) days prior to Client's intended use. Nielsen is not responsible for the accuracy of information produced by such third party from Nielsen Information.

3.3 Legal Proceedings. Except as provided in paragraph 3.1, above, no Services or Nielsen Information may be used in any legal or administrative proceeding. If such use is compelled by legal process, Client shall promptly give Nielsen advance written notice and, before such use, obtain confidentiality agreements, protective orders and evidentiary stipulations acceptable to Nielsen and shall limit the use to the minimum necessary to comply with such legal requirement.

Article 4. Changes to Services and Charges

4.1 Changes to Service. Nielsen may, from time to time, in its sole discretion, make changes to a Service or portion thereof including, without limitation, formats, schedules, specifications and/or techniques.

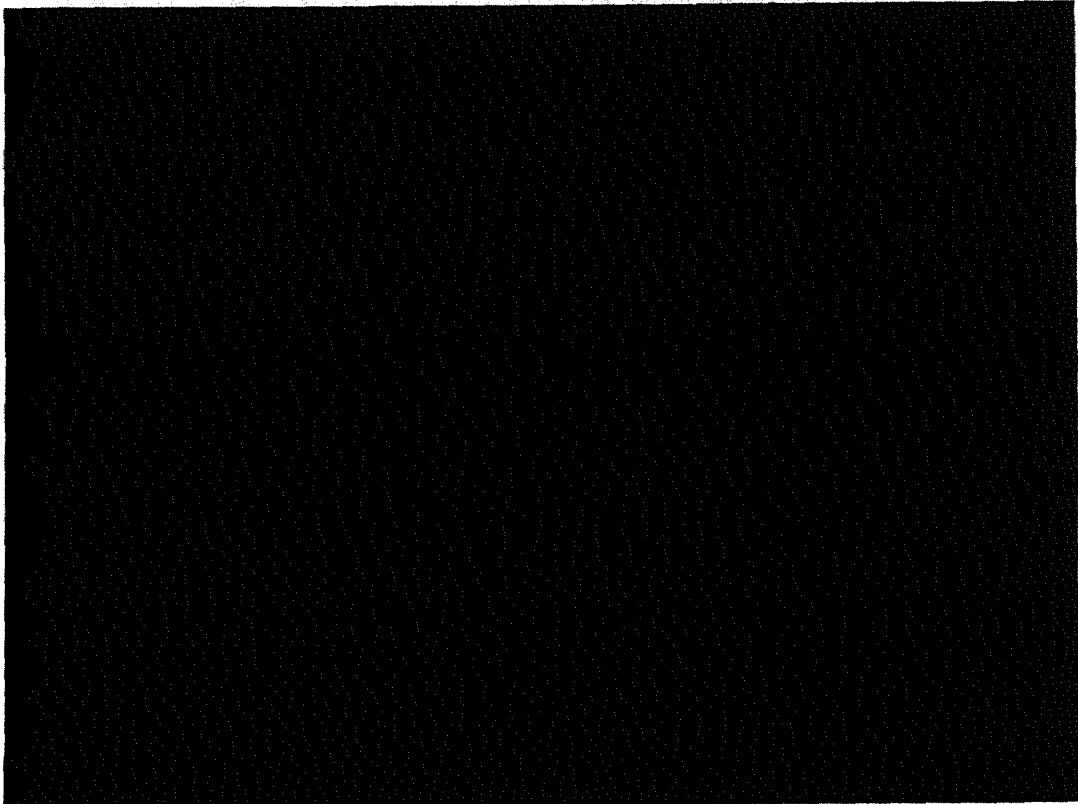
Article 6. Term, Suspension and Termination

Article 7. General Provisions

7.1 Confidentiality of Nielsen Respondents and Households. Client agrees it (i) will not attempt to obtain the name or location of or to contact any household or person furnishing information to Nielsen (a "Respondent or Nielsen Household"), (ii) will keep any information it may learn about any Respondent or Nielsen Household confidential, (iii) will not use such information, and (iv) will promptly notify Nielsen that such information has come to its attention. Client will not permit any employee, or a member of an employee's household, to become a Respondent or Nielsen Household.

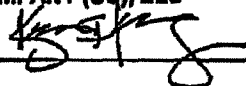
7.3 Survival. The rights and obligations of Nielsen and Client set forth in Articles 2, 3 and 5 and Sections 6.2, 7.1, 7.3, 7.8 and 7.10 shall survive the termination of this Agreement.

7.4 Force Majeure. In the event either party is delayed in or prevented from performing any act required hereunder due to failure of any communication system or on- or off-line computing equipment, labor troubles, inability to procure materials, governmental or judicial orders, acts of God, acts of terrorism, weather conditions, third party interference or other similar reason beyond its control, then performance of such act shall be excused for the period of such delay; provided, however, that Client's obligation to make any payment pursuant to this Agreement shall not be excused for more than ten (10) days.

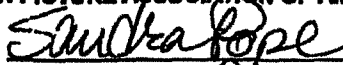


IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto through their duly authorized representatives as of the date set forth above.

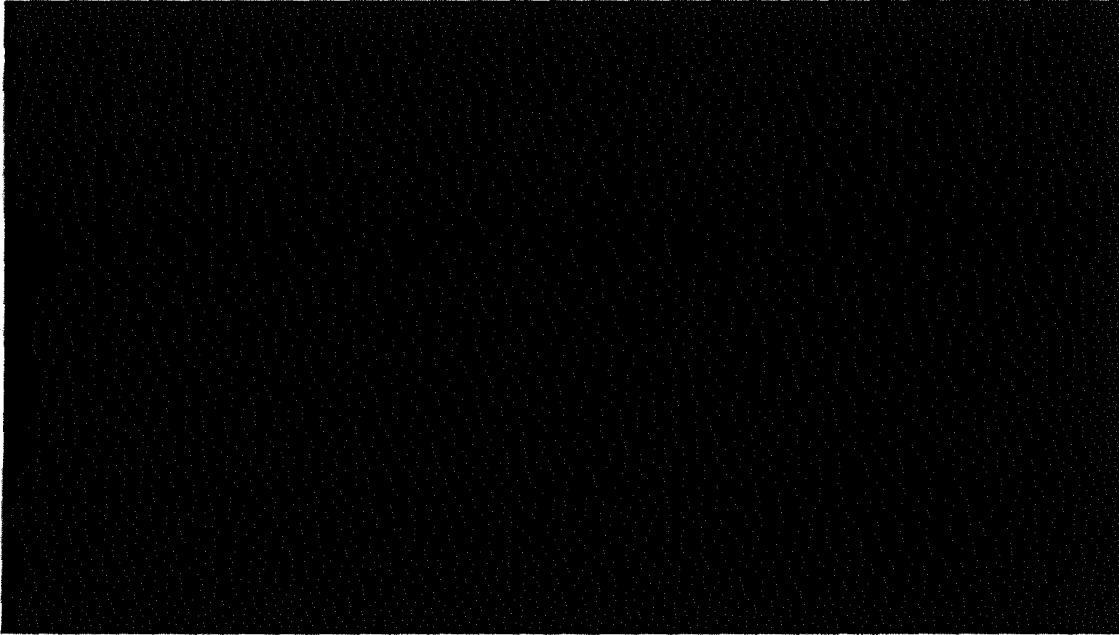
THE NIELSEN COMPANY (US), LLC

By 
Name: Kenneth Cheung
Vice President, Finance
Title: Advertiser Solutions

MOTION PICTURE ASSOCIATION OF AMERICA, INC.

By 
Name: SANDRA POPE
Title: VP, Retransmission
Royalty Program

A. SCOPE OF SERVICE



2. Additional Charges. Client may request Nielsen furnish one or more customized analyses for use by Client under the terms and conditions of this Agreement. The cost of each such analysis shall be determined by Nielsen, in its sole discretion; provided, however, that Nielsen is under no obligation to produce such requested analysis.

EXHIBIT A
Confidentiality Agreement

Before the
LIBRARY OF CONGRESS
Copyright Royalty Board

In the Matter of _____
_____ DOCKET No. _____

CONFIDENTIALITY AGREEMENT

The undersigned, intending to be legally bound, hereby agrees that all materials prepared, compiled or produced by The Nielsen Company (US), LLC ("Nielsen") or containing data attributed to Nielsen (all of which materials are hereby called "Nielsen Documents"), produced in the course of the above-identified action by any of the parties thereto, which shall hereafter be disclosed to the undersigned, shall be used only in connection with this action, and not for any other purpose.

Further, the undersigned, having read the Stipulations and Orders relating to such Nielsen Documents, which have been entered in this action, agrees that the Nielsen Documents and their contents shall be disclosed to no other person, but may be discussed only with legal counsel for a party to this action or any other person who is entitled to access to Nielsen Documents pursuant to the terms of such Stipulations and Orders and who has executed a Confidentiality Agreement.

In addition, the undersigned agrees to take all appropriate precautions to avoid loss or disclosure of any Nielsen Documents, copies thereof, extracts therefrom, or information contained therein.

Finally, the undersigned agrees that, upon termination of this litigation, any Nielsen Documents in his possession or control (including any abstracts, summaries, descriptions, lists, synopses, or any other writings reflecting or revealing the contents of such documents, and all copies) shall be returned to legal counsel from whom such documents or materials were received by the undersigned.

WHEREFORE, intending to be legally bound, the undersigned has executed this Confidentiality Agreement this _____ day of _____, 20____.

Witness:

ACKNOWLEDGMENT

STATE OF _____)

SS

COUNTY OF _____)

On this, the _____ day of _____, 20____, before me, the undersigned authority, personally appeared _____ known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and acknowledged that he executed the same for the purposes therein contained.

In witness whereof, I hereunto set my hand and official seal.

Notary Public

EXHIBIT A
Evidentiary Stipulation

Before the
LIBRARY OF CONGRESS
Copyright Royalty Board

In the Matter of _____

DOCKET No. _____

EVIDENTIARY STIPULATION

WHEREAS, The Nielsen Company (US), LLC has provided certain proprietary data to Motion Picture Association of America, Inc., ("MPAA") ("Nielsen Information");

WHEREAS, the Nielsen Information have been provided to Client for limited uses pursuant to contract;

WHEREAS, the Nielsen Information and the information therein are proprietary to Nielsen and have a continuing value to Nielsen in that Nielsen regularly receives income from providing the information contained in Nielsen Information to other clients that might be interested in the information contained in said Reports;

WHEREAS, _____ ("Requesting Party") have requested that Nielsen waive certain of its rights and permit certain limited disclosure of Nielsen Information relating to the television program "_____"; and

WHEREAS, the parties hereto desire to go forward with the discovery of documents containing Nielsen Information for "_____" without compromising the confidentiality and proprietary nature of Nielsen Information; and

WHEREAS, the parties hereto desire to use documents containing Nielsen Information as part of proceedings before the Copyright Royalty Board in such a way that the Nielsen Information will not be disclosed to anyone other than as set forth herein, and further that the methodology utilized by Nielsen will not be a subject that is contested in this lawsuit;

THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and between the parties hereto and Nielsen that Nielsen hereby does provide a limited waiver of its rights in order to allow MPAA to disclose documents containing Nielsen Information ("Documents") to the attorneys for the Requesting Party so that they may review the contents of said Documents, provided that the terms and conditions set forth below are complied with by each party to this litigation:

1. This Order shall govern the disposition of all data, information and/or materials prepared, compiled and provided by The Nielsen Company (US), LLC which may be produced by any party. This Order shall also govern all answers relating to Nielsen Information and Documents.

2. This Stipulation shall pertain only to Nielsen Information and Documents concerning viewing of "_____" on _____ (date[s]). Documents containing or concerning other Nielsen data shall not be disclosed under any condition. Documents containing Nielsen Information concerning "_____" shall be redacted to disclose only such information and to delete all other Nielsen Information therein concerning other televised events.

3. All Documents and all copies thereof, shall be marked as "Confidential Information."

EXHIBIT A
Evidentiary Stipulation

4. MPAA's counsel shall maintain all Nielsen Information and Documents produced pursuant to this Order in their office. Requesting Party's attorneys may view the Documents, and may make copies of the Documents reviewed pursuant and remove the copies from the offices of the attorneys for Client so long as all copies are marked "Confidential Information" and are otherwise treated in accordance with the terms of this Order.

5. The copies may be disclosed to other members and employees of the law firm representing the parties, provided that the other members and employees of the firm have a need to know the information and agree to be bound by the terms of this Order.

6. The Nielsen Information may be disclosed to the Requesting Party, independent experts, consulting firms, and other independent contractors actually retained or employed to consult with, advise, assist, and/or counsel in the preparation of this action, provided such persons enter into a Confidentiality Agreement in the form set forth as Exhibit A hereto, and further provided that a copy of the Confidentiality Agreement, executed by each person, be forwarded to Nielsen at or before the time that any individual is provided access to the Nielsen documents and information. Said persons may make and retain copies of the documents during the pendency of this litigation subject to the terms of this Order.

7. The attorneys for MPAA shall provide Nielsen with an accurate listing of all Nielsen Documents provided to Requesting Party's attorneys pursuant to this Order at the time that such Nielsen Documents are disclosed.

8. The parties acknowledge that Nielsen retains all rights in and to the Nielsen Information and Documents except as specifically waived herein. At the conclusion of the proceedings, including any and all appeals and retrials, all persons who have had access to Nielsen Information and Documents shall return any and all copies of the Nielsen Information and Documents in their possession to MPAA.

10. The parties agree that neither Nielsen nor any Nielsen officer, director, employee, agent, or other individual will be subpoenaed or required to testify in this action either by deposition or at trial, and further that the methodology utilized by Nielsen will not be a subject that is contested in this proceeding.

11. The terms of this Order shall survive and remain in force and effect after the termination of this proceeding and may not be altered or modified except by written stipulation executed by counsel for all parties hereto and approved by Nielsen.

12. It is agreed between the parties that Nielsen shall not be considered a party to this proceeding, and the parties hereto agree that Nielsen shall have the right to enforce this Order before this Board or any any appellant proceeding at any time during or after this proceeding.

Dated: _____, 20__

By: _____

Dated: _____, 20__

By: _____

IT IS SO ORDERED.

Dated: _____, 20__

EXHIBIT A
Stipulation and Protective Order

Before the
LIBRARY OF CONGRESS
Copyright Royalty Board

In the Matter of _____ }
_____ } DOCKET No. _____
_____ }

STIPULATION AND PROTECTIVE ORDER

WHEREAS, the parties hereto signed an Evidentiary Stipulation entered on _____, 20____, concerning review of Nielsen Information and Documents (as defined therein) by counsel;

WHEREAS, the parties hereto wish to offer certain Nielsen Information into evidence at the trial of this case;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and between the parties and Nielsen that Nielsen does provide a limited waiver of its rights with respect to certain Nielsen data provided that the terms and conditions set forth below are complied with by each party to this litigation:

1. The parties agree and stipulate that the data contained in the Nielsen Information and Documents is a reasonably accurate representation of television viewing in the relevant geographic area, and that such data is admissible as evidence to show such facts (provided that such facts are themselves relevant and material to any particular issue on which they may be offered). The parties hereby agree and stipulate that the Nielsen Information and Documents may be entered into evidence in the proceedings.

2. The parties hereto agree not to assert and do hereby waive any objections to admissibility of any Nielsen Information and Documents on the grounds that they may constitute hearsay, or that they contain opinions, or that they are not the best evidence of information reported therein.

3. The parties hereto agree not to assert and do hereby waive any objections to the authenticity and genuineness of the Nielsen Information and Documents.

4. The parties hereto agree that neither Nielsen nor any Nielsen officer, director, employee, agent, or other individual will be subpoenaed or otherwise required to testify in any manner concerning any Nielsen data to be offered into evidence, and further that the methodology utilized by Nielsen will not be an issue that is contested in this lawsuit.

5. All Nielsen Information and Documents shall be marked as "Confidential Information."

6. The provisions of this Stipulation, and the Evidentiary Stipulation and Order of _____ relating to the parties hereto contemplate that certain information may be extracted from Documents or that summaries (including tables, charts, graphs, etc.) of information contained in such documents may be prepared, and that such extracts or summaries may be offered as evidence at trial. In addition, the parties recognize that certain witnesses may wish to testify concerning information contained in Documents. The provisions of this Stipulation relating to Documents shall be equally applicable to such extracts, summaries, and testimonies based on such documents.

7. The parties agree to provide Nielsen with copies of any Exhibits derived from Nielsen Information and Documents ten (10) days before the time such Exhibits are presented to the Board or appellant proceeding or offered into evidence.

8. All notices concerning this Stipulation to Nielsen shall be mailed to Nielsen at the time that the notice to Nielsen is to be given as follows:

EXHIBIT A
Stipulation and Protective Order

Eric Rubenstein
Senior Vice President and General Counsel, Global Watch
Nielsen
770 Broadway
New York, New York 10003

The parties giving the notice shall also telephone the fact of the notice to the General Counsel of Nielsen Information and Documents by calling (646) 654-8324.

9. The terms of this Protective Order shall survive and remain in force and effect after the termination of this litigation and may not be altered or modified except by written stipulation executed by all parties hereto and approved by Nielsen.

10. None of the provisions of this Stipulation shall alter or modify any of the provisions in the Evidentiary Stipulation and Order dated _____ relating to Nielsen documents, nor shall this Stipulation in any way affect the rights of Nielsen under such prior Order.

11. It is agreed between the parties that Nielsen shall not be considered a party to this proceeding, but the parties hereto agree that Nielsen shall have the right to enforce this Stipulation before this Board at any time during or after this proceeding.

Dated: _____, 20__

By: _____

Dated: _____, 20__

By: _____

IT IS SO ORDERED.

Dated: _____, 20__

Amendment

As of May 1, 2012

Reference is made to the Nielsen Service Agreement between Motion Picture Association of America, Inc. ("Client") and The Nielsen Company (US), LLC ("Nielsen") effective June 1, 2011 (the "Agreement"). For good and valuable consideration, receipt of which is acknowledged by the parties, it is mutually agreed that the Agreement is hereby amended effective as of May 1, 2012 as follows:

1.



2. In addition to the Services set forth in the Agreement, Client requests, and Nielsen agrees to provide, the following Local Television Ratings Data (as defined in the Agreement) for those television stations set forth in Exhibit A, attached hereto:

Deliverables: Custom Report(s) delivered via email as .txt file format

Markets: Select Local Metered Markets and/or Local People Meter Markets and stations as chosen by Client as set forth in Exhibit A, attached hereto:

Time Periods:

- 2000 (December 31, 1999 - January 1, 2001) broken out by individual day (5:00am - 5:00am) and by quarter-hour, by station
- 2001 (December 31, 2000 - January 1, 2002) broken out by individual day (5:00am - 5:00am) and by quarter-hour, by station
- 2002 (December 31, 2001 - January 1, 2003) broken out by individual day (5:00am - 5:00am) and by quarter-hour, by station
- 2003 (December 31, 2002 - January 1, 2004) broken out by individual day (5:00am - 5:00am) and by quarter-hour, by station

Demographics: Households

Statistics: Ratings, Share, and Projections (000) for Live Data Stream



4. The parties acknowledge that, pursuant to Section 3.1(c) of the Agreement

Client may use limited portions of the Nielsen Information in proceedings before the Copyright Royalty Board ("CRB"), or any appellant proceeding concerning a CRB finding; provided that, in each case, (i) any Nielsen Information used for such purpose is marked as "Nielsen Confidential Information"; (ii) Client shall first obtain agreements of confidentiality, protective orders and (where appropriate) evidentiary stipulations acceptable to Nielsen (similar in form and substance to that attached as Exhibit A) that acknowledges that the Nielsen Information is proprietary and confidential information of Nielsen; (iii) neither Nielsen nor any Nielsen officer, director, employee, agent, or other individual will be required to appear in any manner concerning the Nielsen Information and the methodology utilized by Nielsen will not be an issue that is contested in the parties; and (iv) Nielsen shall not be considered a party to any CRB or appellate proceeding

Except as expressly set forth in this Amendment, all terms and conditions set forth in the Agreement remain in full force and effect. As of the effective date hereof, all references to the Agreement shall be references to the Agreement as amended by this Amendment.

IN WITNESS WHEREOF, this Amendment has been executed by the parties hereto through their duly authorized representatives whose signatures are set forth below.

THE NIELSEN COMPANY (US), LLC

By

Name: Kenny Cheung

Title: Vice President, Finance
Advertiser Solutions

MOTION PICTURE ASSOCIATION OF AMERICA, INC.

By

Name: Jane V. Saunders

Title: SVP Rights Management Policy

Exhibit 4



Gregory O. Olaniran
A Professional Corporation
(202) 355-7917 Phone
(202) 355-7887 Fax
goo@msk.com

June 21, 2012

VIA FEDERAL EXPRESS

Denise Vernon
Worldwide Subsidy Group LLC
2667 Rim Oak
San Antonio, TX 78232

**Re: MPAA-Represented Program Suppliers' Production of RESTRICTED Documents
Pursuant to Interim Discovery Agreement; Docket No. 2008-2 CRB CD 2000-2003**

Dear Denise:

Enclosed please find MPAA-Represented Program Suppliers' Production of **RESTRICTED** Documents Pursuant to the Interim Discovery Agreement between MPAA, the Joint Sports Claimants, and Independent Producers Group ("IPG") entered on June 21, 2012. Attached to this cover letter is an index identifying the IPG document request(s) to which each produced document is responsive.

As a courtesy, MPAA-Represented Program Suppliers have agreed on this one occasion to send the enclosed items directly to your attention at your office in San Antonio, Texas. MPAA-Represented Program Suppliers make no commitment to serve future discovery or pleadings in this proceeding to addresses other than those listed on the Copyright Royalty Judges' official service list for this proceeding.

Sincerely,

Gregory O. Olaniran
A Professional Corporation of
MITCHELL SILBERBERG & KNUPP LLP

GOO/pxt

cc: Brian D. Boydston

MPAA-REPRESENTED PROGRAM SUPPLIERS' INITIAL RESTRICTED PRODUCTION (PRODUCED PURSUANT TO INTERIM AGREEMENT PENDING ENTRY OF PROTECTIVE ORDER)

WITNESS	DOCUMENTS	BATES RANGE, FILE NAME(S), OR AVAILABLE FOR INSPECTION	RESPONSIVE IPG REQUEST NUMBERS
KESSLER	MPAA REPRESENTATION AGREEMENTS (REDACTED)	MPAA-RP-05217 - MPAA-RP-05657	9, 10, 16, 36
KESSLER/MARTIN/GRAY	CDC DATA AND DIARY SAMPLE STATION SELECTION ANALYSIS, 2000	Copy of distant stations - working copy.xls	26, 27, 38, 40, 67, 69, 70, 82
KESSLER/MARTIN/GRAY	CDC DATA AND DIARY SAMPLE STATION SELECTION ANALYSIS, 2001	Copy of MKFXSM01_DISTANTSTATIONS_2001 - working copy.xls; Copy of DIARY SAMPLE - 2001 CABLE.xls	26, 27, 38, 40, 67, 69, 70, 82
KESSLER/MARTIN/GRAY	CDC DATA AND DIARY SAMPLE STATION SELECTION ANALYSIS, 2002	Copy of 2002_DistantStations_ALL FORMS_040322 from CDC - working.xls; Copy of Diary Sample - 2002.xls	26, 27, 38, 40, 67, 69, 70, 82
KESSLER/MARTIN/GRAY	CDC DATA AND DIARY SAMPLE STATION SELECTION ANALYSIS, 2003	Copy of 2003 distant comm'l stations for diary study.xls; Copy of 2003 Diary Sample.xls	26, 27, 38, 40, 67, 69, 70, 82
PATTERSON/GRAY	RAW TRIBUNE DATA FOR DIARY SAMPLE STATIONS, 2000-2003	Tribune_Kessler.zip	42, 64, 67, 78
PATTERSON/GRAY	RAW TRIBUNE DATA FOR LOCAL RATINGS STATIONS, 2000-2003	Tribune_Gray.zip	42, 64, 67, 73, 79, 80
PATTERSON/GRAY	MPAA COMPENSABLE RETRANSMISSIONS DATA FILES FOR DIARY STATIONS, 2000	2000 Detail of Diary Matches.xlsx	44, 46, 47, 64, 65
PATTERSON/GRAY	MPAA COMPENSABLE RETRANSMISSIONS DATA FILES FOR DIARY STATIONS, 2001	2001 Detail of Diary Matches.xlsx	44, 46, 47, 64, 65
PATTERSON/GRAY	MPAA COMPENSABLE RETRANSMISSIONS DATA FILES FOR DIARY STATIONS, 2002	2002 Detail of Diary Matches.xlsx	44, 46, 47, 64, 65, 78
PATTERSON/GRAY	MPAA COMPENSABLE RETRANSMISSIONS DATA FILES FOR DIARY STATIONS, 2003	2003 Detail of Diary Matches.xlsx	44, 46, 47, 64, 65
PATTERSON/GRAY	MPAA COMPENSABLE RETRANSMISSIONS DATA FILES FOR LOCAL RATINGS STATIONS, 2000	2000 Detail of Local Matches.zip	44, 46, 47, 64, 65, 80
PATTERSON/GRAY	MPAA COMPENSABLE RETRANSMISSIONS DATA FILES FOR LOCAL RATINGS STATIONS, 2001	2001 Detail of Local Matches.zip	44, 46, 47, 64, 65, 80
PATTERSON/GRAY	MPAA COMPENSABLE RETRANSMISSIONS DATA FILES FOR LOCAL RATINGS STATIONS, 2002	2002 Detail of Local Matches.zip	44, 46, 47, 64, 65, 79, 80
PATTERSON/GRAY	MPAA COMPENSABLE RETRANSMISSIONS DATA FILES FOR LOCAL RATINGS STATIONS, 2003	2003 Detail of Local Matches.zip	44, 46, 47, 64, 65, 80
LINDSTROM/GRAY	RAW NIELSEN DIARY DATA, 2000	niel00.zip; Nielsen File Format.txt	51, 52, 61, 62, 67, 69
LINDSTROM/GRAY	RAW NIELSEN DIARY DATA, 2001	niel01.zip; Nielsen File Format.txt	51, 52, 61, 62, 67, 69

MPAA-REPRESENTED PROGRAM SUPPLIERS' INITIAL RESTRICTED PRODUCTION (PRODUCED PURSUANT TO INTERIM AGREEMENT PENDING ENTRY OF PROTECTIVE ORDER)

WITNESS	DOCUMENTS	BATES RANGE, FILE NAME(S), OR AVAILABLE FOR INSPECTION	RESPONSIVE IPG REQUEST NUMBERS
LINDSTROM/GRAY	RAW NIELSEN DIARY DATA, 2002	niel02_reg_sta.zip; niel02_sup_sta.zip Nielsen File Format.txt	51, 52, 61, 62, 67, 69, 78
LINDSTROM/GRAY	RAW NIELSEN DIARY DATA, 2003	niel03.zip; Nielsen File Format.txt	51, 52, 61, 62, 67, 69
GRAY	RAW NIELSEN LOCAL RATINGS DATA, 2000	Local Ratings 2000.zip	61, 62, 67, 69, 72, 73, 80
GRAY	RAW NIELSEN LOCAL RATINGS DATA, 2001	Local Ratings 2001.zip	61, 62, 67, 69, 72, 73, 80
GRAY	RAW NIELSEN LOCAL RATINGS DATA, 2002	Local Ratings 2002.zip	61, 62, 67, 69, 72, 73, 79, 80
GRAY	RAW NIELSEN LOCAL RATINGS DATA, 2003	Local Ratings 2003.zip	61, 62, 67, 69, 72, 73, 80

Exhibit 5

**Before the
COPYRIGHT ROYALTY JUDGES
Washington, DC**

In the Matter of)	
)	
Phase II Distribution of the 2000,)	Docket No. 2008-2
2001, 2002 and 2003 Cable)	CRB CD 2000-2003 (Phase II)
Royalty Funds)	
)	

**REBUTTAL TESTIMONY OF SETTling DEVOTIONAL CLAIMANTS WITNESS
ALAN G. WHITT**

Clifford M. Harrington (D.C. Bar No. 218107)
Matthew J. MacLean (D.C. Bar No. 479257)
Victoria N. Lynch (D.C. Bar No. 1001445)
PILLSBURY WINTHROP SHAW PITTMAN LLP
Post Office Box 57197
Washington, DC 20036-9997
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E-Mail: Clifford.Harrington@PillsburyLaw.com
Counsel for Settling Devotional Claimants

Testimony of Alan G. Whitt

My name is Alan G. Whitt and I am testifying on behalf of the Settling Devotional Claimants ("SDC") in this proceeding.

I. Professional Background

A. Work and Education History

Between 1963 and 1967 I served in the United States Navy, attaining the rank of 2nd class petty officer in the data processing area, my principle duties were as a computer operator. From 1967-1969, I attended Montgomery College in Rockville, MD., graduating with an AA degree in Computer Science (with honors). Then, between 1974-1981, while working for the Board of Governors of the Federal Reserve System, I attended The American University (Washington, DC) on a part-time basis, graduating with B.S. in Technology of Management. In my course of study, I majored in computer application system design and database design. During this period, I also took a number of graduate-level courses in these fields.

I worked for the Board of Governors of the Federal Reserve System for 31 years, between 1969-2000. When I retired in 2000, I held the title Supervisory Information Systems Analyst. In my work at the Federal Reserve, I was Project Leader and Programmer on numerous large programming projects including:

1. *Goldwire*. Goldwire is a system that balances on every banking business day, the gold reserves at the 37 Federal Reserve Banks and branches. This work, done in conjunction with the U.S. Treasury Department, monitors the business of selling U.S. Treasury bonds and bills at the Federal Reserve Banks. I earned a Letter of Commendation for my work on Goldwire.

2. *UBPR and BHCPR.* The Uniform Bank Performance Report (UBPR) and the Bank Holding Company Performance Report (BHCPR) are two systems that produced reports on a quarterly basis for all state chartered banks and all bank holding companies in the U.S. These systems chart the performance by institutions measured against their peers to show how well they are operating. Each Report contained in excess of twenty pages of statistics data for both current and historical quarters. I was awarded a Special Bonus for this work.
3. *Savings and Loan Crisis 1989-1991.* During the financial crisis of 1989-1991, I served as Project Leader of all saving and loans crisis reporting. During this time, I programmed and designed, in conjunction with economists, daily reports on the condition of all savings and loans institutions in the U.S. I was awarded a Special Bonus for this work.
4. *Bank Overdraft Project.* The Bank Overdraft Project (BOP) was a multi-year study of the vulnerability of large banks to systemic failure. I served as the Project Leader of BOP. This Project involved processing massive amounts of data from automated national and international clearing houses for bank-to-bank electronic transfers of funds. I was awarded a Special Bonus for this work.

B. IT PROCESSING LLC

After retiring from the Federal Reserve in 2000, I formed a new company, IT Processing LLC ("IT Processing"), which I operated until my retirement in 2010. IT Processing was formed to capitalize on my extensive expertise in handling massive data projects. I was experienced in both software and computer operations that allowed for millions of unique items of data to be accurately and efficiently entered and analyzed. After formation of the company, I

was retained by the MPAA to process large data files consisting of cable and satellite copyright royalty programming and viewing associated with claims filed with the Copyright Royalty Arbitration Panels (CARP) and Copyright Royalty Board (CRB). In the course of my work, I rewrote the application system in the SAS computer language, which allowed for faster and better processing with greatly enhanced reporting systems.

II. MPAA/Nielsen Household Viewing Hours Study

A. Overview Description of the MPAA/Nielsen HHVH Study

In the course of my work for MPAA, I was engaged to process the data that MPAA and Nielsen collected regarding their special study of viewing of television programs on cable systems on a distant basis. For many years, MPAA evaluated the viewing of television programs carried by FCC-licensed television stations that were retransmitted by cable systems outside their local markets. The MPAA study consisted of three parts.

First, Marsha Kessler of MPAA selected a sample of television stations and determined where the signals were local and distant for cable copyright purposes. Using standards established by the parties to the copyright royalty cases, she also defined the programs that qualified for copyright compulsory fees.

Second, The Nielsen Company, led by Paul Lindstrom, utilizing data from the quarterly "sweeps," estimated the quarter hours that households located in distant cable markets viewed qualified programs on the selected stations. The Nielsen data of quarterly viewing hours was forwarded to me.

Third, with access to program information derived from the Tribune Media Services ("TMS") database of programs that aired during the relevant calendar year, I merged the data from Nielsen and MPAA with the TMS data, converted the Nielsen quarter hour information to

hourly statistics and produced huge databases of distant cable household viewing, producing a database known as Rawmerge. Rawmerge is a database that represents the merger of data from TMS, which has detailed programming information (such as station, date, time, title, category, type and subtype, among other of information columns) together with household viewing numbers provided by Nielsen.

B. Preparation of Nielsen Data

Sweep data from Nielsen was sent to IT Processing in text files, representing four periods of sweep data each year. The data sets contain information for February, May, July and November for each year. Each row of Nielsen data represents a 15-minute increment in the sweep period and each sweep period consists of four weeks. Since Nielsen data does not specify date or time, that data must be calculated from their particular processing standards. For example, instead of time of day, each row is assigned a number from 1 to 96, with the number 1 representing the 6:00 AM time slot and 96 representing 5:45 AM the next day.¹

As part of our task, IT Processing would use an algorithm to normalize dates. The algorithm calculated standard dates by using the “week number,” “sweep cycle,” and “day of week” columns. The algorithm required the beginning dates of each sweep cycle be hard-coded into the programming code. This “normalized” date and time was required in order to match the TMS data. Once the dates were set, the household viewing number, which represents 15 minutes of viewing, was divided by four in order to yield hourly viewing statistics.

C. Preparation of TMS Data

TMS data is reported in rows representing entire programs. These rows are divided into 15-minute increments so that they can be merged with the 15-minute time periods that Nielsen

¹ By 2000, Nielsen diary measurements covered a 24 hour day.

reported. Dates and times are adjusted accordingly. Before the TMS database is merged with the Nielsen viewing data, MPAA ensured that the TMS program schedule properly reflected actual airings. Since TMS data is based on station reporting of scheduled programs, it is not uncommon for actual airings to be at variance with the TMS schedule. For example, sports programs may run over scheduled time, newscasts can break into and interrupt programs, and other preemptions may occur. MPAA endeavored to address these flaws in the TMS database, as well as determine whether generic program titles (Movie, Paid Programming, etc.) can be attributed to a specific source. This is a special service that MPAA paid for. Normal customers of TMS do not receive such updated information.

D. Creation of the "Rawmerge" File

To create the Rawmerge file, the two processed files from Nielsen and TMS are merged by IT Processing by Station, Date and Time. Only rows that matched were kept. This is the database that was used in preparation of the files sent to SDC.

E. The Household Viewing Reports Provided to SDC

During the course of my work at IT Processing, SDC acquired four Reports of Household Viewing Hours from the MPAA Copyright Royalty Databases for 2000-2003. These Reports appear as exhibits to my testimony. Exhibit 1 is the 2000 Report. Exhibit 2 is the 2001 Report. Exhibit 3 is the 2002 Report. Exhibit 4 is the 2003 Report. I prepared these Reports selectively from the "Rawmerge" file contained in the MPAA databases. The reporting rows were selected by identifying "Categories" with "Devotional" and/or a Subtype of "Religious." In addition, rows were selected if the title contained certain key character strings. The following is a complete list of the character strings used in the selection of titles:

700 CLUB

AMAZING FACTS

RELIGIOUS

CATHOLIC

CHARLES STANLEY

CORAL RIDGE

CHRISTIAN

CRYSTAL CATHEDRAL

JAMES KENNEDY

GLORY OF

HOUR OF HEALING

LUTHERAN

HOUR OF POWER

IN TOUCH

IT IS WRITTEN

JERRY FALW

JOYCE MEYER

LIFE IN THE WORD

LISTEN AMERICA

LIVE FROM LIBERTY

MAKE YOUR DAY COUNT

MIRACLES NOW

OLD TIME GOSPEL

ORAL ROBERTS

PAT ROBINSON

MINISTRIES

REGINALD B. CHERRY

BIBLE CHURCH

ROBERT SCHULLER

RON PHILLIPS

SPEAK THE WORD

SUPER BOOK

SUPERBOOK

HOUSE OF DALLAS

T.D. JAKES

ZOLA LEVITT

FLYING HOUSE

SPUNKY

STORY TELLER

STORYTELLER

CBN

EASTER PROMISE

ONE CUBED

BILLY GRAHAM.

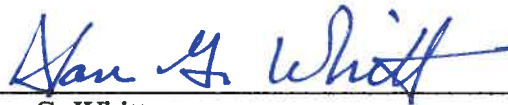
The selected rows were then aggregated by title and station summing the adjusted household viewing hours from Nielsen.

I appreciated the opportunity to explain these complex database reports.

DECLARATION OF ALAN G. WHITT

I declare under penalty of perjury that the foregoing testimony is true and correct and of my personal knowledge.

Executed: May 14, 2013



Alan G. Whitt

Exhibit 6

From: itprocessing@att.net [<mailto:itprocessing@att.net>]

Sent: Thursday, November 30, 2006 2:38 PM

To: Arnie Lutzker <arnie@lutzker.com>

Subject: RE: Devotional Data available items

Arnie,

It was good talking to you today.

The only available items you might be interested in are:

TITLE

STATION

DATE

TIME (in 15 minute increments, i.e. 1200, 1215, 1230, 1245, etc.)

PROGRAM DESCRIPTION (usually, but not always, blank, the description might mention the name of the person hosting the program)

VIEWING HOURS.

The data are in 15-minute increments, so for a half-hour program there would be 2 rows. To avoid confusion I will give you the hourly viewing rate for the row.

For 2002 data, if you requested every 15-minute row for religious programming during sweep periods, the number of rows would be 32,138. This data can be summarized in a variety of ways: for example maybe you don't care about the time of day but want to know the viewing at the title, station and date level. I could summarize viewing to that level. If you didn't care about the dates shown, I could summarize viewing to the Title, Station level. and finally, if you didn't care about what stations it was shown on I could give you the viewing at the title level.

You could select one or all of these summary levels. The cost would be greater for multiple summaries.

If you are comfortable with an excel spreadsheet, I think that would be the best format to get the data. If you prefer a printed report, that's ok with me. The cost would be about the same, regardless of format.

The cost will be \$1,000 for each year and \$100 additional for each summary for that year. For example if you just wanted the data at the Title, Station, and Date viewing level it would cost \$1,000. If in addition to that, you wanted the detailed data, and a summary at the Title, Station level (3 separate files) it would cost \$1,200. You could, of course, get the detailed data and do your own summaries using EXCEL, but that can be tedious and error-prone. If you alter the data in any way I can't be responsible for the results.

The data could be delivered via email. Any additional requests for special formats or delivery requirements may add to the cost.

I look forward to hearing from you.

Alan

--

Phone number 301-622-1578

Fax number 301-625-9730

1224 Kathryn Road, Silver Spring,
MD 20904

----- Original message from "Arnie Lutzker" <arnie@lutzker.com>: -----

Marsha and Alan: I'm finally getting back to you both re Devotional Data from the MPAA/Nielsen Database. We are at the point where we would like to order Devotionals Sweep Reports not just for 1999, but for the years 1999-2003. I assume, based on Marsha's notes below, that this would be the simplest order; that is we are only interested in the cable HHVH sweep data. When we received this report in the past, it was a listing of all religious programs identified in the MPAA Study with a listing of each channel in the study that carried the show, and the HHVH per channel per program.

In some years past, we also received sweep and full year data, but to answer your questions below, at this time, we only need sweep data.

I plan to have a list of particular religious program titles that the Devotional Group Members have identified. I understand that some of them may not be in the study because they were not carried on measured stations; however, the Devotionals want to make sure that the identified shows are coded RELIGIOUS and in the study, as opposed to perhaps OTHER and outside the survey. My plan is to have all titles available in the next day or two.

For the present time, I want to confirm the availability of the data for the five years – 1999-2003 – the cost and other mechanics on your end and mine. Re cost - will it be the same amount per year? If amount varies from year to year for any reason, I will need to know the cost for each year, so the cost can be allocated appropriately.

Also, I'd appreciate knowing the time frame for turning around information once the order placed.

Of course, let me know if you have any questions. Thanks a lot!
Arnie

ARNOLD P. LUTZKER
LUTZKER & LUTZKER LLP
1233 20TH STREET, NW
SUITE 703
WASHINGTON, DC 20036
TEL. 202-408-7600 EXT. 1
FAX 202-408-7677
EMAIL: ARNIE@LUTZKER.COM
WEBSITE: WWW.LUTZKER.COM

-----Original Message-----

From: Marsha_Kessler@mpaa.org [mailto:Marsha_Kessler@mpaa.org]

Sent: Tuesday, February 15, 2005 10:38 AM

To: itprocessing@att.net; arnie@lutzker.com

Subject: Devotional Data - 1999

Alan & Arnie -

Introductions, first.

Alan, Arnie Lutzker is an attorney who, in this regard, is collectively representing the Devotional Claimants for calendar year 1999.

Arnie, Alan Whitt is the President of IT Processing, the company that does the IT work related to MPAA's royalty distributions.

Arnie, I have authorized Alan to prepare your database of 1999 viewing to devotional programs similar to that which he produces for MPAA relative to our royalty distributions.

Alan and I were discussing the Devotional Claimants' needs, and we only met with one question, which I will explain to you, and we will let you make the decision as to how you want to proceed.

The data from Nielsen cover the sweeps periods only. If the Devotional claimants want data related just to sweeps, that is fine.

For MPAA's distribution purposes, we estimate viewing for the periods for which we do not have Nielsen viewing. The estimates are based on comparing Nielsen viewing between two points in time on a particular station at a particular 15-minute interval, and then developing an algorithm to calculate the viewing in between. The results are that we have a database consisting of 365 days, 24-7.

The results are reliable for us due to the plethora and regular-scheduling of stripped series and movies on tv. We have not studied, however, whether that method is reliable for any other program category. To the extent that devotional programs are regularly stripped (and I believe many are), then I would think the 365-day data would work well for your group. To the extent that the scheduling of devotional programs varies from week to week, a program could end up with over- or under-estimated viewing, thus effecting, I would imagine, the value of that show in the Devotional Claimants' internal royalty allocation.

At any rate, we are leaving it to you as to whether the Devotional Claimants would like a database limited to the Nielsen sweeps periods viewing, or whether you would like a full year's worth of data based on the Nielsen data plus MPAA estimates.

As to costs:

Arnie, I will email you separately as to the cost of the data. The financial arrangements between ITProcessing and the Devotional Claimants are between the two of you.

Please let me know if you have any questions.

Marsha

Marsha E. Kessler
VP, Retransmission Royalty Distribution
Motion Picture Association of America
1600 Eye Street, NW
Washington, DC 20006
Phone: 202-293-1966
Fax: 202-785-3026

Exhibit 7



Lucy Holmes Plovnick
Partner
(202) 355-7918 Phone
(202) 355-7888 Fax
lhp@msk.com

August 11, 2014

VIA E-MAIL

Clifford M. Harrington
Pillsbury Winthrop Shaw Pittman LLP
2300 N Street, NW
Washington, D.C. 20037-1122

**Re: MPAA-Represented Program Suppliers' Production of Documents To SDC,
Docket Nos. 2012-6 CRB CD 2004-2009 (Phase II) and 2012-7 CRB SD 1999-2009
(Phase II)**

Dear Cliff:

Today you will receive via courier delivery five (5) boxes of paper documents and two DVDs containing electronic documents, which, taken together, comprise all of the documents that MPAA has produced to Independent Producers Group ("IPG") in connection with the two referenced proceedings to date. Many of these documents have been designated by MPAA as RESTRICTED documents subject to the Copyright Royalty Judges' July 1, 2014 Protective Orders in these proceedings. These documents and electronic data are all clearly labeled as RESTRICTED documents as required by the Protective Orders. Also, transmitted herewith please find two declarations executed by Greg Olaniran of my firm in support of MPAA's RESTRICTED designations.

Sincerely,

A handwritten signature in cursive script that reads "Lucy Holmes Plovnick".

Lucy Holmes Plovnick

Partner

MITCHELL SILBERBERG & KNUPP LLP

**Before the
COPYRIGHT ROYALTY JUDGES
Washington, D.C.**

In the Matter of)

Distribution of the 2004, 2005, 2006,
2007, 2008, and 2009)
Cable Royalty Funds)
_____)

Docket No. 2012-6 CRB CD 2004-2009
(Phase II)

DECLARATION

I, Gregory O. Olaniran, hereby declare, under penalty of perjury, that the foregoing statement is true and correct, and of my personal knowledge:

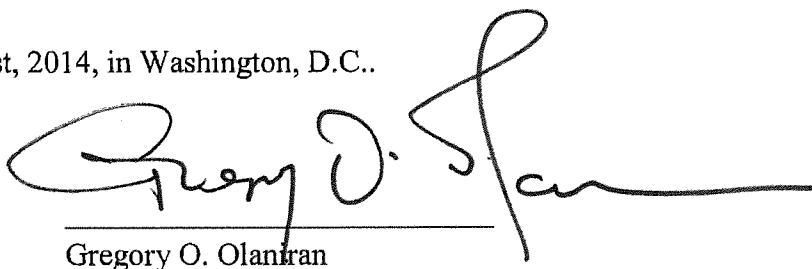
1. I am over 18 years of age and am employed as a an attorney at law duly licensed to practice law in Maryland and the District of Columbia. I am a partner in the law firm of Mitchell Silberberg & Knupp LLP, attorneys of record for Motion Picture Association of America, Inc. ("MPAA") and other program suppliers who have agreed to representation by MPAA in the captioned proceeding.

2. I am familiar with the documents and data files listed on the attached Exhibit A, which were produced by MPAA-represented Program Suppliers in discovery in this proceeding and designated as "RESTRICTED" documents subject to the July 1, 2014 Protective Order entered in this proceeding ("Protective Order").

3. To the best of my knowledge, information, and belief, all of the documents and data files identified on Exhibit A satisfy the definition of Protected Materials set forth in Section

III of the Protective Order, as they contain confidential and proprietary information. Because of the confidential and proprietary nature of these documents, good cause exists for their treatment as Protected Materials, as that term is defined in the Protective Order.

Executed this 11th day of August, 2014, in Washington, D.C..



Gregory O. Olaniran

EXHIBIT A

MPAA REVISED RESTRICTED PRODUCTION 6-4-14, PURSUANT TO PROTECTIVE ORDER IN DOCKET NO. 2012-6 CRB CD 2004-2009 (PHASE II)

WITNESS	DESCRIPTION OF DOCUMENTS	BATES RANGE OR FILE NAME	BASIS FOR DESIGNATION AS PROTECTED MATERIALS
GRAY	Tribune Data	mp010100.dat	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	mp010101.dat	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	mp010102.dat	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	mp010103.dat	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	mp020100.dat	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	mp020101.dat	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	mp020102.dat	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	mp020103.dat	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	mp030100.dat	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	mp030101.dat	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	mp030102.dat	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	mp030103.dat	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	mp040100.dat	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	mp040101.dat	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	mp040102.dat	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	mp040103.dat	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	mp050100.dat	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	mp050101.dat	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	mp050102.dat	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	mp050103.dat	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	mp060100.dat	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	mp060101.dat	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	mp060102.dat	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	mp060103.dat	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	mp070100.dat	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	mp070101.dat	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	mp070102.dat	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	mp070103.dat	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	mp080100.dat	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	mp080101.dat	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	mp080102.dat	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	mp080103.dat	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	mp090100.dat	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	mp090101.dat	CONFIDENTIAL AND PROPRIETARY

MPAA REVISED RESTRICTED PRODUCTION 6-4-14, PURSUANT TO PROTECTIVE ORDER IN DOCKET NO. 2012-6 CRB CD 2004-2009 (PHASE II)

WITNESS	DESCRIPTION OF DOCUMENTS	BATES RANGE OR FILE NAME	BASIS FOR DESIGNATION AS PROTECTED MATERIALS
GRAY	Tribune Data	mp090102.dat	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	mp090103.dat	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	mp100100.dat	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	mp100101.dat	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	mp100102.dat	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	mp100103.dat	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	mp110100.dat	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	mp110101.dat	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	mp110102.dat	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	mp110103.dat	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	mp120100.dat	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	mp120101.dat	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	mp120102.dat	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	mp120103.dat	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	mp123100.dat	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	mp123101.dat	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	mp123102.dat	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	mp123199.dat	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	MPAA2004.zip	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	MPAAWGNA04.zip	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	MPAA2005.zip	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	MPAAWGNA05.zip	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	MPAA2006.zip	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	MPAAWGNA06.zip	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	MPAA2007.zip	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	MPAACK07.zip	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	MPAA2008.zip	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	MPAACK08.zip	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	MPAA2009.zip	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	MPAACK09.zip	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data Specification	TV Schedules International 5.0 Zap2it only.PDF	CONFIDENTIAL AND PROPRIETARY
GRAY	MPAA Compensable Retransmissions, 2004 Cable	cable_2004.csv	CONFIDENTIAL AND PROPRIETARY
GRAY	MPAA Compensable Retransmissions, 2005 Cable	cable_2005.csv	CONFIDENTIAL AND PROPRIETARY
GRAY	MPAA Compensable Retransmissions, 2006 Cable	cable_2006.csv	CONFIDENTIAL AND PROPRIETARY

MPAA REVISED RESTRICTED PRODUCTION 6-4-14, PURSUANT TO PROTECTIVE ORDER IN DOCKET NO. 2012-6 CRB CD 2004-2009 (PHASE II)

WITNESS	DESCRIPTION OF DOCUMENTS	BATES RANGE OR FILE NAME	BASIS FOR DESIGNATION AS PROTECTED MATERIALS
GRAY	MPAA Compensable Retransmissions, 2007 Cable	cable_2007.csv	CONFIDENTIAL AND PROPRIETARY
GRAY	MPAA Compensable Retransmissions, 2008 Cable	cable_2008.csv	CONFIDENTIAL AND PROPRIETARY
GRAY	MPAA Compensable Retransmissions, 2009 Cable	cable_2009.csv	CONFIDENTIAL AND PROPRIETARY
LINDSTROM/GRAY	Nielsen National Viewing Data	Bcast Qtr Hr 2000-2009.xlsx	CONFIDENTIAL AND PROPRIETARY
LINDSTROM/GRAY	Nielsen Cable Diary Data, 2000	niel00.zip	CONFIDENTIAL AND PROPRIETARY
LINDSTROM/GRAY	Nielsen Cable Diary Data, 2001	niel01.zip	CONFIDENTIAL AND PROPRIETARY
LINDSTROM/GRAY	Nielsen Cable Diary Data, 2002	niel02_reg_sta.zip	CONFIDENTIAL AND PROPRIETARY
LINDSTROM/GRAY	Nielsen Cable Diary Data, 2002	niel02_sup_sta.zip	CONFIDENTIAL AND PROPRIETARY
LINDSTROM/GRAY	Nielsen Cable Diary Data, 2003	niel03.zip	CONFIDENTIAL AND PROPRIETARY
LINDSTROM/GRAY	Nielsen File Format Description	Nielsen File Format.txt	CONFIDENTIAL AND PROPRIETARY
LINDSTROM/GRAY	Nielsen Local Ratings Data, 2000	2000.zip	CONFIDENTIAL AND PROPRIETARY
LINDSTROM/GRAY	Nielsen Local Ratings Data, 2001	2001.zip	CONFIDENTIAL AND PROPRIETARY
LINDSTROM/GRAY	Nielsen Local Ratings Data, 2002	2002.zip	CONFIDENTIAL AND PROPRIETARY
LINDSTROM/GRAY	Nielsen Local Ratings Data, 2003	2003.zip	CONFIDENTIAL AND PROPRIETARY
LINDSTROM/GRAY	Nielsen Local Ratings Data, 2004	2004.zip	CONFIDENTIAL AND PROPRIETARY
LINDSTROM/GRAY	Nielsen Local Ratings Data, 2005	2005.zip	CONFIDENTIAL AND PROPRIETARY
LINDSTROM/GRAY	Nielsen Local Ratings Data, 2006	2006.zip	CONFIDENTIAL AND PROPRIETARY
LINDSTROM/GRAY	Nielsen Local Ratings Data, 2007	2007.zip	CONFIDENTIAL AND PROPRIETARY
LINDSTROM/GRAY	Nielsen Local Ratings Data, 2008	2008.zip	CONFIDENTIAL AND PROPRIETARY
LINDSTROM/GRAY	Nielsen Local Ratings Data, 2009	2009.zip	CONFIDENTIAL AND PROPRIETARY
LINDSTROM/GRAY	Nielsen Local Ratings Data, 2000	Local Ratings 2000.zip	CONFIDENTIAL AND PROPRIETARY
LINDSTROM/GRAY	Nielsen Local Ratings Data, 2001	Local Ratings 2001.zip	CONFIDENTIAL AND PROPRIETARY
LINDSTROM/GRAY	Nielsen Local Ratings Data, 2002	Local Ratings 2002.zip	CONFIDENTIAL AND PROPRIETARY
LINDSTROM/GRAY	Nielsen Local Ratings Data, 2003	Local Ratings 2003.zip	CONFIDENTIAL AND PROPRIETARY
MARTIN/GRAY	CDC Data Related to 2001 Cable Diary Study Sample Selection	Copy of MKFXSM01_DISTANTSTATIONS_2001 - working copy.xls	CONFIDENTIAL AND PROPRIETARY
MARTIN/GRAY	CDC Data Related to 2000 Cable Diary Study Sample Selection	Copy of distant stations - working copy.xls	CONFIDENTIAL AND PROPRIETARY
MARTIN/GRAY	CDC Data Related to 2002 Cable Diary Study Sample Selection	Copy of 2002_DistantStations_ALL FORMS_040322 from CDC - working.xls	CONFIDENTIAL AND PROPRIETARY
MARTIN/GRAY	CDC Data Related to 2003 Cable Diary Study Sample Selection	Copy of 2003 distant comm'l stations for diary study.xls	CONFIDENTIAL AND PROPRIETARY
MARTIN/GRAY	CDC Data Related To Gray Cable Sample Stations	MPAA_FINAL_CommercialStation_Summary_by_Year_2004_2009_20Dec2013.xlsx	CONFIDENTIAL AND PROPRIETARY
SAUNDERS	MPAA Representation Agreements (REDACTED)	MPAA-C-03427 - MPAA-C-03868	CONFIDENTIAL AND PROPRIETARY
SAUNDERS	MPAA-Represented Claimants' Title Certifications, 2004 Cable Royalty Fund (REDACTED)	MPAA-C-03869 - MPAA-C-04491	CONFIDENTIAL AND PROPRIETARY
SAUNDERS	MPAA-Represented Claimants' Title Certifications, 2005 Cable Royalty Fund (REDACTED)	MPAA-C-04492 - MPAA-C-05052	CONFIDENTIAL AND PROPRIETARY
SAUNDERS	MPAA-Represented Claimants' Title Certifications, 2006 Cable Royalty Fund (REDACTED)	MPAA-C-05053 - MPAA-C-05449	CONFIDENTIAL AND PROPRIETARY

MPAA REVISED RESTRICTED PRODUCTION 6-4-14, PURSUANT TO PROTECTIVE ORDER IN DOCKET NO. 2012-6 CRB CD 2004-2009 (PHASE II)

WITNESS	DESCRIPTION OF DOCUMENTS	BATES RANGE OR FILE NAME	BASIS FOR DESIGNATION AS PROTECTED MATERIALS
SAUNDERS	MPAA-Represented Claimants' Title Certifications, 2007 Cable Royalty Fund (REDACTED)	MPAA-C-05450 - MPAA-C-05939	CONFIDENTIAL AND PROPRIETARY
SAUNDERS	MPAA-Represented Claimants' Title Certifications, 2008 Cable Royalty Fund (REDACTED)	MPAA-C-05940 - MPAA-C-06491	CONFIDENTIAL AND PROPRIETARY
SAUNDERS	MPAA-Represented Claimants' Title Certifications, 2009 Cable Royalty Fund (REDACTED)	MPAA-C-06492 - MPAA-C-07333	CONFIDENTIAL AND PROPRIETARY

MPAA RESTRICTED PRODUCTION 8-11-14, PURSUANT TO PROTECTIVE ORDER IN DOCKET NO. 2012-6 CRB CD 2004-2009

WITNESS	DESCRIPTION OF DOCUMENTS	BATES RANGE OR FILE NAME
SAUNDERS	Microsoft Excel document prepared by counsel in response to July 30 Order	MPAA Owner Title 2000-2009 (6308249).XLS
SAUNDERS	Electronic copies of Saunders Appendices A and B	Saunders Cable.zip
SAUNDERS	Nielsen Local Reference Supplements	Available For Inspection; Copies Will Be Produced Following IPG's Execution Of Confidentiality Agreement Acceptable to Nielsen, sent to IPG on August 7, 2014.
GRAY	Regression Program Files	ratings.zip
GRAY	Regression Program Files	sample.zip
GRAY	Regression Program Files	cable.zip

**Before the
COPYRIGHT ROYALTY JUDGES
Washington, D.C.**

In the Matter of)

Distribution of the 1999-2009)
Satellite Royalty Funds)
_____)

Docket No. 2012-7 CRB SD 1999-2009
(Phase II)

DECLARATION

I, Gregory O. Olaniran, hereby declare, under penalty of perjury, that the foregoing statement is true and correct, and of my personal knowledge:

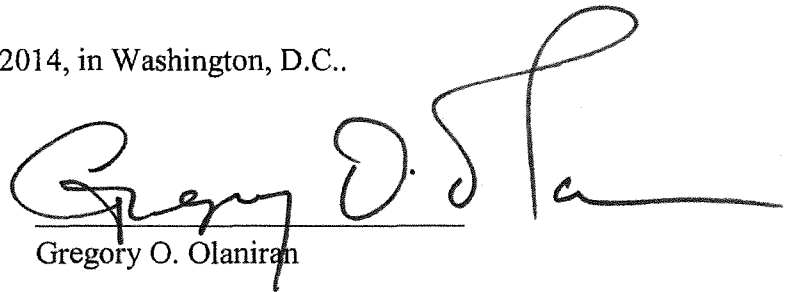
1. I am over 18 years of age and am employed as a an attorney at law duly licensed to practice law in Maryland and the District of Columbia. I am a partner in the law firm of Mitchell Silberberg & Knupp LLP, attorneys of record for Motion Picture Association of America, Inc. ("MPAA") and other program suppliers who have agreed to representation by MPAA in the captioned proceeding.

2. I am familiar with the documents and data files listed on the attached Exhibit A, which were produced by MPAA-represented Program Suppliers in discovery in this proceeding and designated as "RESTRICTED" documents subject to the July 1, 2014 Protective Order entered in this proceeding ("Protective Order").

3. To the best of my knowledge, information, and belief, all of the documents and data files identified on Exhibit A satisfy the definition of Protected Materials set forth in Section

III of the Protective Order, as they contain confidential and proprietary information. Because of the confidential and proprietary nature of these documents, good cause exists for their treatment as Protected Materials, as that term is defined in the Protective Order.

Executed this 11th day of August, 2014, in Washington, D.C..



Gregory O. Olaniran

EXHIBIT A

MPAA REVISED RESTRICTED PRODUCTION 6-4-14, PURSUANT TO PROTECTIVE ORDER IN DOCKET NO. 2012-7 CRB SD 1999-2009 (PHASE II)

WITNESS	DESCRIPTION OF DOCUMENTS	BATES RANGE OR FILE NAME	BASIS FOR DESIGNATION AS PROTECTED MATERIALS
GRAY	MPAA Compensable Retransmissions, 2000-2009 Satellite	GRAY.zip	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	mp010100.dat	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	mp010101.dat	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	mp010102.dat	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	mp010103.dat	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	mp020100.dat	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	mp020101.dat	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	mp020102.dat	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	mp020103.dat	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	mp030100.dat	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	mp030101.dat	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	mp030102.dat	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	mp030103.dat	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	mp040100.dat	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	mp040101.dat	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	mp040102.dat	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	mp040103.dat	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	mp050100.dat	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	mp050101.dat	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	mp050102.dat	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	mp050103.dat	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	mp060100.dat	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	mp060101.dat	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	mp060102.dat	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	mp060103.dat	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	mp070100.dat	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	mp070101.dat	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	mp070102.dat	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	mp070103.dat	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	mp080100.dat	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	mp080101.dat	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	mp080102.dat	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	mp080103.dat	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	mp090100.dat	CONFIDENTIAL AND PROPRIETARY

MPAA REVISED RESTRICTED PRODUCTION 6-4-14, PURSUANT TO PROTECTIVE ORDER IN DOCKET NO. 2012-7 CRB SD 1999-2009 (PHASE II)

WITNESS	DESCRIPTION OF DOCUMENTS	BATES RANGE OR FILE NAME	BASIS FOR DESIGNATION AS PROTECTED MATERIALS
GRAY	Tribune Data	mp090101.dat	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	mp090102.dat	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	mp090103.dat	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	mp100100.dat	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	mp100101.dat	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	mp100102.dat	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	mp100103.dat	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	mp110100.dat	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	mp110101.dat	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	mp110102.dat	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	mp110103.dat	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	mp120100.dat	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	mp120101.dat	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	mp120102.dat	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	mp120103.dat	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	mp123100.dat	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	mp123101.dat	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	mp123102.dat	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	mp123199.dat	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	MPAAS2000.zip	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	MPAASW00.zip	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	MPAA2001.zip	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	MPAASW01.zip	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	MPAAS2002.zip	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	MPAASW02.zip	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	MPAAS2003.zip	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	MPAASW03.zip	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	MPAAS2004.zip	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	MPAASW04.zip	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	MPAAS2005.zip	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	MPAASW05.zip	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	MPAAS2006.zip	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	MPAASW06.zip	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	MPAAS2007.zip	CONFIDENTIAL AND PROPRIETARY

MPAA REVISED RESTRICTED PRODUCTION 6-4-14, PURSUANT TO PROTECTIVE ORDER IN DOCKET NO. 2012-7 CRB SD 1999-2009 (PHASE II)

WITNESS	DESCRIPTION OF DOCUMENTS	BATES RANGE OR FILE NAME	BASIS FOR DESIGNATION AS PROTECTED MATERIALS
GRAY	Tribune Data	MPAASW07.zip	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	MPAAS2008.zip	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	MPAASW08.zip	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	MPAAS2009.zip	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data	MPAASW09.zip	CONFIDENTIAL AND PROPRIETARY
GRAY	Tribune Data Specification	TV Schedules International 5.0 Zap2it only.PDF	CONFIDENTIAL AND PROPRIETARY
LINDSTROM/GRAY	Nielsen National Viewing Data	Bcast Qtr Hr 2000-2009.xlsx	CONFIDENTIAL AND PROPRIETARY
LINDSTROM/GRAY	Nielsen Local Ratings Data, 2000	2000.zip	CONFIDENTIAL AND PROPRIETARY
LINDSTROM/GRAY	Nielsen Local Ratings Data, 2001	2001.zip	CONFIDENTIAL AND PROPRIETARY
LINDSTROM/GRAY	Nielsen Local Ratings Data, 2002	2002.zip	CONFIDENTIAL AND PROPRIETARY
LINDSTROM/GRAY	Nielsen Local Ratings Data, 2003	2003.zip	CONFIDENTIAL AND PROPRIETARY
LINDSTROM/GRAY	Nielsen Local Ratings Data, 2004	2004.zip	CONFIDENTIAL AND PROPRIETARY
LINDSTROM/GRAY	Nielsen Local Ratings Data, 2005	2005.zip	CONFIDENTIAL AND PROPRIETARY
LINDSTROM/GRAY	Nielsen Local Ratings Data, 2006	2006.zip	CONFIDENTIAL AND PROPRIETARY
LINDSTROM/GRAY	Nielsen Local Ratings Data, 2007	2007.zip	CONFIDENTIAL AND PROPRIETARY
LINDSTROM/GRAY	Nielsen Local Ratings Data, 2008	2008.zip	CONFIDENTIAL AND PROPRIETARY
LINDSTROM/GRAY	Nielsen Local Ratings Data, 2009	2009.zip	CONFIDENTIAL AND PROPRIETARY
LINDSTROM/GRAY	Nielsen Local Ratings Data, 2000	Local Ratings 2000.zip	CONFIDENTIAL AND PROPRIETARY
LINDSTROM/GRAY	Nielsen Local Ratings Data, 2001	Local Ratings 2001.zip	CONFIDENTIAL AND PROPRIETARY
LINDSTROM/GRAY	Nielsen Local Ratings Data, 2002	Local Ratings 2002.zip	CONFIDENTIAL AND PROPRIETARY
LINDSTROM/GRAY	Nielsen Local Ratings Data, 2003	Local Ratings 2003.zip	CONFIDENTIAL AND PROPRIETARY
LINDSTROM/GRAY	Nielsen Satellite Diary Data	Feb 2000: DPGRP1.CSV	CONFIDENTIAL AND PROPRIETARY
LINDSTROM/GRAY	Nielsen Satellite Diary Data	Feb 2000: DPGRP2.CSV	CONFIDENTIAL AND PROPRIETARY
LINDSTROM/GRAY	Nielsen Satellite Diary Data	Feb 2000: DPGRP3.CSV	CONFIDENTIAL AND PROPRIETARY
LINDSTROM/GRAY	Nielsen Satellite Diary Data	Feb 2000: DPGRP4.CSV	CONFIDENTIAL AND PROPRIETARY
LINDSTROM/GRAY	Nielsen Satellite Diary Data	Jul 2000: DPGRP1.CSV	CONFIDENTIAL AND PROPRIETARY
LINDSTROM/GRAY	Nielsen Satellite Diary Data	Jul 2000: DPGRP2.CSV	CONFIDENTIAL AND PROPRIETARY
LINDSTROM/GRAY	Nielsen Satellite Diary Data	Jul 2000: DPGRP3.CSV	CONFIDENTIAL AND PROPRIETARY
LINDSTROM/GRAY	Nielsen Satellite Diary Data	Jul 2000: DPGRP4.CSV	CONFIDENTIAL AND PROPRIETARY
LINDSTROM/GRAY	Nielsen Satellite Diary Data	May 2000: DPGRP1.CSV	CONFIDENTIAL AND PROPRIETARY
LINDSTROM/GRAY	Nielsen Satellite Diary Data	May 2000: DPGRP2.CSV	CONFIDENTIAL AND PROPRIETARY
LINDSTROM/GRAY	Nielsen Satellite Diary Data	May 2000: DPGRP3.CSV	CONFIDENTIAL AND PROPRIETARY
LINDSTROM/GRAY	Nielsen Satellite Diary Data	May 2000: DPGRP4.CSV	CONFIDENTIAL AND PROPRIETARY
LINDSTROM/GRAY	Nielsen Satellite Diary Data	Nov 2000: DPGRP1.CSV	CONFIDENTIAL AND PROPRIETARY

MPAA REVISED RESTRICTED PRODUCTION 6-4-14, PURSUANT TO PROTECTIVE ORDER IN DOCKET NO. 2012-7 CRB SD 1999-2009 (PHASE II)

WITNESS	DESCRIPTION OF DOCUMENTS	BATES RANGE OR FILE NAME	BASIS FOR DESIGNATION AS PROTECTED MATERIALS
LINDSTROM/GRAY	Nielsen Satellite Diary Data	Nov. 2000: DPGRP2.CSV	CONFIDENTIAL AND PROPRIETARY
LINDSTROM/GRAY	Nielsen Satellite Diary Data	Nov. 2000: DPGRP3.CSV	CONFIDENTIAL AND PROPRIETARY
LINDSTROM/GRAY	Nielsen Satellite Diary Data	Nov 2000: DPGRP4.CSV	CONFIDENTIAL AND PROPRIETARY
LINDSTROM/GRAY	Nielsen Satellite Diary Data	Feb 2001: DPGRP1.CSV	CONFIDENTIAL AND PROPRIETARY
LINDSTROM/GRAY	Nielsen Satellite Diary Data	Feb 2001: DPGRP2.CSV	CONFIDENTIAL AND PROPRIETARY
LINDSTROM/GRAY	Nielsen Satellite Diary Data	Feb 2001: DPGRP3.CSV	CONFIDENTIAL AND PROPRIETARY
LINDSTROM/GRAY	Nielsen Satellite Diary Data	Feb 2001: DPGRP4.CSV	CONFIDENTIAL AND PROPRIETARY
LINDSTROM/GRAY	Nielsen Satellite Diary Data	July 2001: jul01_diary1.csv	CONFIDENTIAL AND PROPRIETARY
LINDSTROM/GRAY	Nielsen Satellite Diary Data	July 2001: jul01_diary2.csv	CONFIDENTIAL AND PROPRIETARY
LINDSTROM/GRAY	Nielsen Satellite Diary Data	July 2001: jul01_diary3.csv	CONFIDENTIAL AND PROPRIETARY
LINDSTROM/GRAY	Nielsen Satellite Diary Data	July 2001: jul01_diary4.csv	CONFIDENTIAL AND PROPRIETARY
LINDSTROM/GRAY	Nielsen Satellite Diary Data	May 2001: may01_diary1.csv	CONFIDENTIAL AND PROPRIETARY
LINDSTROM/GRAY	Nielsen Satellite Diary Data	May 2001: may01_diary2.csv	CONFIDENTIAL AND PROPRIETARY
LINDSTROM/GRAY	Nielsen Satellite Diary Data	May 2001: may01_diary3.csv	CONFIDENTIAL AND PROPRIETARY
LINDSTROM/GRAY	Nielsen Satellite Diary Data	May 2001: may01_diary4.csv	CONFIDENTIAL AND PROPRIETARY
LINDSTROM/GRAY	Nielsen Satellite Diary Data	Nov 2001: nov01_dairy1.csv	CONFIDENTIAL AND PROPRIETARY
LINDSTROM/GRAY	Nielsen Satellite Diary Data	Nov 2001: nov01_diary2.csv	CONFIDENTIAL AND PROPRIETARY
LINDSTROM/GRAY	Nielsen Satellite Diary Data	Nov 2001: nov01_diary3.csv	CONFIDENTIAL AND PROPRIETARY
LINDSTROM/GRAY	Nielsen Satellite Diary Data	Nov 2001: nov01_diary4.csv	CONFIDENTIAL AND PROPRIETARY
LINDSTROM/GRAY	Nielsen Satellite Diary Data	Feb 2002: DYPRTF02RR.zip; WSBKF02R.csv	CONFIDENTIAL AND PROPRIETARY
LINDSTROM/GRAY	Nielsen Satellite Diary Data	Jul 2002: DYPRTJ02RR.zip; WSBKJ02R.csv	CONFIDENTIAL AND PROPRIETARY
LINDSTROM/GRAY	Nielsen Satellite Diary Data	May 2002: DYPRTM02RR.zip; WSBKM02R.csv	CONFIDENTIAL AND PROPRIETARY
LINDSTROM/GRAY	Nielsen Satellite Diary Data	Nov 2002: DYPRTN02RR.zip; WSBKN02R.csv	CONFIDENTIAL AND PROPRIETARY
LINDSTROM/GRAY	Nielsen Satellite Diary Data	Feb 2003: DYPRTF03.zip; WSBKF03R.csv	CONFIDENTIAL AND PROPRIETARY
LINDSTROM/GRAY	Nielsen Satellite Diary Data	Jul 2003: DYPRTJ03.zip	CONFIDENTIAL AND PROPRIETARY
LINDSTROM/GRAY	Nielsen Satellite Diary Data	May 2003: DYPRTM03.zip	CONFIDENTIAL AND PROPRIETARY
LINDSTROM/GRAY	Nielsen Satellite Diary Data	Nov 2003: DYPRTN03.zip	CONFIDENTIAL AND PROPRIETARY
LINDSTROM/GRAY	Nielsen Satellite Diary Data	Feb 2004: DYPRTF04.zip	CONFIDENTIAL AND PROPRIETARY
MARTIN	CDC Data Related to 2001 Satellite Diary Study Sample Selection	11-7-05 2001_Satellite__Fees_Gen_For_Royalty_Allocation.csv	CONFIDENTIAL AND PROPRIETARY
MARTIN	CDC Data Related to 2002 Satellite Diary Study Sample Selection	2002_SatSTNSum_1March2006_mk.csv	CONFIDENTIAL AND PROPRIETARY
MARTIN	CDC Data Related to 2003 Satellite Diary Study Sample Selection	2003_satellite_fees_gen_3aug07_MOD.csv	CONFIDENTIAL AND PROPRIETARY
MARTIN	CDC Data Related to 2003 Satellite Diary Study Sample Selection	2003_stations_for_viewing_analysis.csv	CONFIDENTIAL AND PROPRIETARY
MARTIN	CDC Data Related to 2000 Satellite Diary Study Sample Selection	2000_Satellite_CDC_Carriage_Data_(6062070).xls	CONFIDENTIAL AND PROPRIETARY
MARTIN/GRAY	CDC Data Related To Gray Satellite Sample Stations	MPAA_FINALCommercialSatelliteStations_2000_2009_27Dec2013.xlsx	CONFIDENTIAL AND PROPRIETARY

MPAA REVISED RESTRICTED PRODUCTION 6-4-14, PURSUANT TO PROTECTIVE ORDER IN DOCKET NO. 2012-7 CRB SD 1999-2009 (PHASE II)

WITNESS	DESCRIPTION OF DOCUMENTS	BATES RANGE OR FILE NAME	BASIS FOR DESIGNATION AS PROTECTED MATERIALS
SAUNDERS	MPAA Representation Agreements (REDACTED)	MPAA-S-03676 - MPAA-S-04209	CONFIDENTIAL AND PROPRIETARY
SAUNDERS	MPAA-Represented Claimants' Title Certifications, 2000 Satellite Royalty Fund (REDACTED)	MPAA-S-04210 - MPAA-S-04663	CONFIDENTIAL AND PROPRIETARY
SAUNDERS	MPAA-Represented Claimants' Title Certifications, 2001 Satellite Royalty Fund (REDACTED)	MPAA-S-04664 - MPAA-S-05217	CONFIDENTIAL AND PROPRIETARY
SAUNDERS	MPAA-Represented Claimants' Title Certifications, 2002 Satellite Royalty Fund (REDACTED)	MPAA-S-05218 - MPAA-S-06010	CONFIDENTIAL AND PROPRIETARY
SAUNDERS	MPAA-Represented Claimants' Title Certifications, 2003 Satellite Royalty Fund (REDACTED)	MPAA-S-06011 - MPAA-S-06577	CONFIDENTIAL AND PROPRIETARY
SAUNDERS	MPAA-Represented Claimants' Title Certifications, 2004 Satellite Royalty Fund (REDACTED)	MPAA-S-06578 - MPAA-S-07200	CONFIDENTIAL AND PROPRIETARY
SAUNDERS	MPAA-Represented Claimants' Title Certifications, 2005 Satellite Royalty Fund (REDACTED)	MPAA-S-07201 - MPAA-S-07761	CONFIDENTIAL AND PROPRIETARY
SAUNDERS	MPAA-Represented Claimants' Title Certifications, 2006 Satellite Royalty Fund (REDACTED)	MPAA-S-07762 - MPAA-S-08158	CONFIDENTIAL AND PROPRIETARY
SAUNDERS	MPAA-Represented Claimants' Title Certifications, 2007 Satellite Royalty Fund (REDACTED)	MPAA-S-08159 - MPAA-S-08648	CONFIDENTIAL AND PROPRIETARY
SAUNDERS	MPAA-Represented Claimants' Title Certifications, 2008 Satellite Royalty Fund (REDACTED)	MPAA-S-08649 - MPAA-S-09200	CONFIDENTIAL AND PROPRIETARY
SAUNDERS	MPAA-Represented Claimants' Title Certifications, 2009 Satellite Royalty Fund (REDACTED)	MPAA-S-09201 - MPAA-S-10042	CONFIDENTIAL AND PROPRIETARY

MPAA RESTRICTED PRODUCTION 8-11-14, PURSUANT TO PROTECTIVE ORDER IN DOCKET NO. 2012-7 CRB SD 1999-2009 (PHASE

WITNESS	DESCRIPTION OF DOCUMENTS	BATES RANGE OR FILE NAME
SAUNDERS	Microsoft Excel document prepared by counsel in response to July 30 Order	MPAA Owner Title 2000-2009 (6308249).XLS
SAUNDERS	Electronic copies of Saunders Appendices A and B	Saunders Satellite.zip
SAUNDERS	Nielsen Local Reference Supplements	Available For Inspection; Copies Will Be Produced Following IPG's Execution Of Confidentiality Agreement Acceptable to Nielsen, sent to IPG on August 7, 2014.
GRAY	Regression Program Files	ratings.zip
GRAY	Regression Program Files	sample.zip
GRAY	Regression Program Files	satellite.zip

Exhibit 8

Before the
COPYRIGHT ROYALTY JUDGES
Washington, D.C.

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In the Matter of)	
)	
Distribution of the 1999, 2000, 2001, 2002,)	Docket No. 2012-7 CRB SD 1999-
2003, 2004, 2005, 2006, 2007, 2008, and)	2009 (Phase II)
2009 Satellite Royalty Funds)	
<hr/>)	

**INDEPENDENT PRODUCERS GROUP RESPONSES TO
DOCUMENT REQUESTS AND FOLLOW-UP DOCUMENT REQUESTS OF
SETTLING DEVOTIONAL CLAIMANTS**

On behalf of Independent Producers Group (“IPG”), the following are the responses to the discovery requests and follow-up discovery requests propounded by the Settling Devotional Claimants (“SDC”), dated May 19, 2014, June 6, 2014, and August 4, 2014.

General Objections

IPG will respond to the requests to the best of its ability; however, with respect to each of the requests, IPG states the following General Objections:

- 1) IPG objects to these requests to the extent that they are vague, ambiguous, or otherwise not susceptible to a response, and to the extent that they are overly broad, unduly burdensome, and seek the disclosure of documents and information not reasonably calculated to lead to the discovery of evidence admissible in this proceeding.
- 2) IPG objects to these requests to the extent they call for the disclosure of information that is confidential to IPG and/or third parties. Any information identified as “confidential” shall be subject to a General Protective Order proposed to the Copyright Royalty Judges for this proceeding.
- 3) IPG objects to these requests to the extent that they seek disclosure of documents and information that is not subject to discovery pursuant to the regulations applicable to the Copyright Royalty Board, set forth at 37 C.F.R. Section 301.1, et seq.

- 4) IPG objects to these requests to the extent that the definitions and instructions purport to impose obligations beyond those imposed by the regulations of the Copyright Royalty Board.
- 5) IPG objects to these requests to the extent that they seek the disclosure of information and documents protected from disclosure by the attorney-client privilege and/or the attorney work product doctrine.
- 6) IPG objects to these requests to the extent that they seek the disclosure of information and documents not within IPG's possession, custody, or control.
- 7) IPG objects to these requests to the extent that they seek the disclosure of information unrelated to these Phase II proceedings, or to the Phase II category in which the propounding party is involved.
- 8) IPG objects to these requests to the extent that they seek information in a form or format not regularly kept in the normal course of business.
- 9) IPG objects to these requests to the extent that they request the preparation of documents that do not exist.
- 10) IPG objects to these requests to the extent that they request the production of documents already included and produced as part of the Direct Case of IPG.
- 11) IPG objects to the instructions to the extent that they call for either responses or the production of documents in a format beyond what is required by the Copyright Royalty Board regulations, or in a format with which the responding party did not cooperate with IPG, e.g., repeating each of the requests.

RESPONSES TO DOCUMENT REQUESTS

TESTIMONY OF RAUL C. GALAZ

1. Provide all documents, data, and source material that Mr. Galaz expressly considered that underlie, support, relate to or form the basis of any and all facts, conclusions, and/or opinions contained in the Testimony.

Response to Request No. 1: Except as set forth in the General Objections stated above, IPG does not object to this request, subject to the caveat that IPG will produce documents that were expressly considered by the witness, consistent with the CRB Order of January 31, 2014 in the 1998-1999 cable distribution proceedings (Phase II).

2. Provide all documents relating to IPG's right to file petitions to participate in this proceeding. (Galaz Testimony at 1.)

Response to Request No. 2: Except as set forth in the General Objections stated above, IPG does not object to this request. See Items 3-6.

3. Provide all documents relating to IPG's legal structure described in Galaz Testimony at 1, n.1.

Response to Request No. 3: Except as set forth in the General Objections stated above, IPG does not object to this request. See Items 1-2.

4. Provide copies of all Claims filed by or on behalf of IPG or Claimants.

Response to Request No. 4: Except as set forth in the General Objections stated above, IPG does not object to this request. See Item 3.

5. Provide all documents relating to written agreements between IPG and all entities included in Exhibit IPG-1 identified as Devotional Claimants, including but not limited to all assignment agreements, mandate agreements, representation agreements, and extensions thereof (hereinafter the "Devotional Representation Agreements").

Response to Request No. 5: Except as set forth in the General Objections stated above, IPG does not object to this request, subject to the caveat that IPG's production shall be limited to documents that IPG will rely on to establish its *prima facie* case demonstrating its entitlement to receive and distribute retransmission royalties for the identified devotional claimants, and documents that contradict such assertion, consistent with the CRB Order of January 31, 2014 in the 1998-1999 cable distribution proceedings (Phase II). See Items 3-6.

6. Provide copies of all correspondence between IPG and Claimants with respect to the Devotional Representation Agreements.

Response to Request No. 6: Except as set forth in the General Objections stated above, IPG does not object to this request, subject to the caveat that IPG's production shall be limited to documents that IPG will rely on to establish its *prima facie* case demonstrating its entitlement to receive and distribute retransmission royalties for the identified devotional claimants, and documents that contradict such assertion, consistent with the CRB Order of January 31, 2014 in the 1998-1999 cable distribution proceedings (Phase II). See Items 3-6.

7. Provide all documents relating to written agreements between IPG and all entities included in Exhibit IPG-1 identified as Sports and Program Suppliers Claimants, including but not limited to all assignment agreements, mandate agreements, representation agreements and extensions thereof (hereinafter the “Sports and Program Suppliers Representation Agreements”).

Response to Request No. 7: The document request is not calculated to lead to the discovery of admissible evidence, consistent with the CRB Order of January 31, 2014 in the 1998-1999 cable distribution proceedings (Phase II). No documents will be produced.

8. Provide copies of all correspondence between IPG and Claimants with respect to the Sports and Program Suppliers Representation Agreements.

Response to Request No. 8: The document request is not calculated to lead to the discovery of admissible evidence, consistent with the CRB Order of January 31, 2014 in the 1998-1999 cable distribution proceedings (Phase II). No documents will be produced.

9. Provide all documents related to IPG’s determination that the Claimants listed under “Devotional” in Exhibit IPG-1 are devotional claimants. (Galaz Testimony at 1, n.2, and Exhibit IPG-1.)

Response to Request No. 9: Except as set forth in the General Objections stated above, IPG does not object to this request. See Item 6.

10. Provide all documents related to IPG’s determination that certain programs listed in Exhibit IPG-2 fall in the “Devotional” Phase I Category. (Galaz Testimony at 1, n.2; 7, n.3; and Exhibit IPG-2.)

Response to Request No. 10: Except as set forth in the General Objections stated above, IPG does not object to this request. See Items 6, 22, 23.

11. Provide all documents related to IPG’s determination that certain programs listed in Exhibit IPG-2 fall in the “Devotional/Program Suppliers” Phase I Categories. (Galaz Testimony at 1, n.2; 7, n.3; and Exhibit IPG-2.)

Response to Request No. 11: Except as set forth in the General Objections stated above, IPG does not object to this request. See Items 6, 22, 23.

12. Provide all documents related to IPG's determination that the Claimants listed under "Devotional" that are also listed under "Program Suppliers" in Exhibit IPG-1 are program suppliers claimants. (Galaz Testimony at 1, n.2, and Exhibit IPG-1.)

Response to Request No. 12: Except as set forth in the General Objections stated above, IPG does not object to this request. No documents exist.

13. Provide all documents related to IPG's program categorization, i.e. defining the program categories of Devotional, Program Supplier and Sports.

Response to Request No. 13: Except as set forth in the General Objections stated above, IPG does not object to this request. See Items 22-23.

14. Provide a representative sample of documents constituting promotional material, film trailers, and/or billboards for each program in Exhibit IPG-2 that IPG determined falls in the "Devotional/Program Suppliers" Phase I Categories. (Exhibit IPG-2.)

Response to Request No. 14: Except as set forth in the General Objections stated above, IPG does not object to this request. Notwithstanding, no such documents are currently in the possession, care, custody or control of IPG. No documents will be produced.

15. Provide a representative sample of each program in Exhibit IPG-2 that IPG determined falls in the "Devotional/Program Suppliers" Phase I Categories. (Exhibit IPG-2.)

Response to Request No. 15: Objection, consistent with the CRB Order of January 31, 2014 in the 1998-1999 cable distribution proceedings (Phase II), there is no requirement under the applicable statutory or regulatory sections for a participant in a distribution proceeding to produce exemplars of a program, and only documents are required for production. Notwithstanding no such representative samples are currently in the possession, care, custody or control of IPG. No documents will be produced.

16. Provide a representative sample of documents constituting promotional material, film trailers, and/or billboards for each program in Exhibit IPG-2 that IPG determined falls in the "Devotional" Phase I Category. (Exhibit IPG-2.)

Response to Request No. 16: Except as set forth in the General Objections stated above, IPG does not object to this request. Notwithstanding, no such documents are currently in the possession, care, custody or control of IPG. No documents will be produced.

17. Provide a representative sample of each program in Exhibit IPG-2 that IPG determined falls in the “Devotional” Phase I Category. (Exhibit IPG-2.)

Response to Request No. 17: Objection, consistent with the CRB Order of January 31, 2014 in the 1998-1999 cable distribution proceedings (Phase II), there is no requirement under the applicable statutes or regulations for a participant in a distribution proceeding to produce exemplars of a program, and only documents are required for production. Notwithstanding no such representative samples are currently in the possession, care, custody or control of IPG. No documents will be produced.

18. Provide all documents showing whether each program in Exhibit IPG-2 that IPG determined falls in the “Devotional/Program Suppliers” Phase I Categories is a theatrical motion picture made for television or a program series, and the length of the program(s). (Exhibit IPG-2.)

Response to Request No. 18: Except as set forth in the General Objections stated above, IPG does not object to this request. See Item 23.

19. Provide all documents that undermine IPG’s determination that Claimants listed in Exhibit IPG-1 as Devotional are properly represented by IPG in this proceeding. (Exhibit IPG-1.)

Response to Request No. 19: Except as set forth in the General Objections stated above, IPG does not object to this request. No documents exist.

20. Provide all documents that undermine IPG’s determination that Claimants listed in Exhibit IPG-1 as Sports or Program Suppliers are properly represented by IPG in this proceeding. (Exhibit IPG-1.)

Response to Request No. 20: The document request is not calculated to lead to the discovery of admissible evidence, consistent with the CRB Order of January 31, 2014 in the 1998-1999 cable distribution proceedings (Phase II). No documents will be produced.

21. Provide all documents that undermine IPG’s determination that programs owned by the Claimants listed in Exhibit IPG-1 are “Devotional” programs. (Exhibit IPG-1 and Exhibit IPG-2.)

Response to Request No. 21: Except as set forth in the General Objections stated above, IPG does not object to this request. See Item 23.

22. Provide all documents showing the legal names of the entities that produced and distributed each Devotional program identified in Exhibit IPG-2. (Exhibit IPG-2.)

Response to Request No. 22: Except as set forth in the General Objections stated above, IPG does not object to this request. Other than documents produced by IPG in connection with the 1998-1999 cable proceedings (Phase II), IPG has no documents in its possession. No documents will be produced.

23. Provide all documents showing the legal names of the entities that produced and distributed each Sports and Program Suppliers program identified in Exhibit IPG-2. (Exhibit IPG-2.)

Response to Request No. 23: The document request is not calculated to lead to the discovery of admissible evidence, consistent with the CRB Order of January 31, 2014 in the 1998-1999 cable distribution proceedings (Phase II). No documents will be produced.

24. Provide all documents showing which programs identified in Exhibit IPG-2 are distinct programs, as opposed to mere variations in program titles. (Galaz Testimony at 7, n.3, and Exhibit IPG-2.)

Response to Request No. 24: Except as set forth in the General Objections stated above, IPG does not object to this request. See Items 6, 23.

25. Provide all documents that underlie, relate to or support IPG's "[c]riteria for Phase II Award." (Galaz Testimony at 2-3.)

Response to Request No. 25: Except as set forth in the General Objections stated above, IPG does not object to this request. No documents will be produced.

26. Provide all documents relating to the "stations [on which] program[s] appeared" in 1999 through 2009. (Galaz Testimony at 3.)

Response to Request No. 26: Except as set forth in the General Objections stated above, IPG does not object to this request. See Items 22-23.

27. With respect to each station identified in Request No. 26, provide all documents relating to the "number of subscribers receiving the retransmitted signal[s]" in 1999 through 2009. (Galaz Testimony at 3.)

Response to Request No. 27: Except as set forth in the General Objections stated above, IPG does not object to this request. See Items 21, 23.

28. With respect to each station identified in Request No. 26, provide all documents relating to the “fees collected from station[s] retransmissions” in 1999 through 2009. (Galaz Testimony at 3.)

Response to Request No. 28: Except as set forth in the General Objections stated above, IPG does not object to this request. No documents will be produced.

29. Provide all documents relating to the “length of ... program[s]” broadcast between 1999 and 2009. (Galaz Testimony at 3.)

Response to Request No. 29: Except as set forth in the General Objections stated above, IPG does not object to this request. See Item 23.

30. Provide all documents underlying the statement: “Factors such as the unknown, after-the-fact determined viewership of the program, or after-the-fact ratings (there is a distinction), would be of no relevance, since compulsory license fee paid by the Satellite System Operator (“SSO”) is paid in advance of, and regardless of, any such determinations of viewership or ratings.” (Galaz Testimony at 3.)

Response to Request No. 30: Except as set forth in the General Objections stated above, IPG does not object to this request. The statements are based on Mr. Galaz’s personal knowledge and experience. No documents will be produced.

31. Provide all documents relating to the “factor” described as “anticipated viewership of the program, as reflected by the time period during which a program was broadcast (e.g., 8:00pm versus 2:00am).” (Galaz Testimony at 3.)

Response to Request No. 31: Except as set forth in the General Objections stated above, IPG does not object to this request. See Item 23, 24 (Nielsen report).

32. Provide all documents underlying the statement: “IPG proposes a distribution methodology that relies on data that reflects the compulsory license fees that have been generated by retransmitted stations, the number of distant households that received the retransmitted broadcasts, programming data reflecting the length of the broadcast, and data that reflects the viewership within particular time periods calculated.” (Galaz Testimony at 4.)

Response to Request No. 32: Except as set forth in the General Objections stated above, IPG does not object to this request. The statements are based on Mr. Galaz's personal knowledge and experience. No documents will be produced.

33. Provide copies of all "methodological alternatives ... constructed" with such data. (Galaz Testimony at 4.)

Response to Request No. 33: Except as set forth in the General Objections stated above, IPG does not object to this request. See Item 23.

34. Provide all documents underlying Mr. Galaz's statement: "Such entitlement exists based on criteria developed by the Copyright Royalty Tribunal, the Copyright Arbitration Royalty Panel, and the Copyright Office; specifically, (a) value to the SSO, (b) harm to the syndicator, (c) market value of the program, and (d) time." (Galaz Testimony at 4.)

Response to Request No. 34: Except as set forth in the General Objections stated above, IPG does not object to this request. The statements are based on Mr. Galaz's personal knowledge and experience. No documents will be produced.

35. Provide all documents underlying the statement that "the value or appeal of any particular terrestrial station to a SSO cannot be based on ratings that will occur only after the SSO has elected to carry a terrestrial station." (Galaz Testimony at 5.)

Response to Request No. 35: Except as set forth in the General Objections stated above, IPG does not object to this request. The statements are based on Mr. Galaz's personal knowledge and experience. No documents will be produced.

36. Provide all documents underlying the statement that "the overall appeal of the terrestrial station to reach niches with a SSO's subscriber base could be the determinative factor that affects whether the SSO will carry particular terrestrial station." (Galaz Testimony at 5.)

Response to Request No. 36: Except as set forth in the General Objections stated above, IPG does not object to this request. The statements are based on Mr. Galaz's personal knowledge and experience. No documents will be produced.

37. Provide all documents underlying the statement: "IPG has attempted to construct a distribution methodology that is content-blind, and merely considers objective criteria that exists or can be determined *before* the retransmission occurs." (Galaz Testimony at 6.)

Response to Request No. 37: Except as set forth in the General Objections stated above, IPG does not object to this request. The statements are based on Mr. Galaz's personal knowledge and experience. No documents will be produced.

38. Provide all documents underlying the statement "IPG has identified substantial broadcasts of IPG-claimed programs (the "Programs") that have generated satellite retransmission royalties during the 1999-2009 calendar years. Each of the Programs is either owned or controlled by entities that have assigned IPG the right to collect satellite retransmission royalties attributable to their programming." (Galaz Testimony at 7.)

Response to Request No. 38: Except as set forth in the General Objections stated above, IPG does not object to this request. See Items 3-6, 20, 23.

39. Provide all documents exchanged between IPG and MPAA-represented Program Suppliers in the 2000-2003 Phase II Cable Royalty Distribution Proceeding regarding the following Claimants: IWV Media Group, Inc. and Reel Media International.

Response to Request No. 39: The document request is not calculated to lead to the discovery of admissible evidence, consistent with the CRB Order of January 31, 2014 in the 1998-1999 cable distribution proceedings (Phase II). No documents will be produced.

40. Provide all documents which identify the retransmission of each Devotional program listed in Exhibit IPG-2 by year.

Response to Request No. 40: Except as set forth in the General Objections stated above, IPG does not object to this request. See Item 23.

41. Provide all documents which identify the retransmission of each Program Suppliers program listed in Exhibit IPG-2 by year.

Response to Request No. 41: The document request is not calculated to lead to the discovery of admissible evidence, consistent with the CRB Order of January 31, 2014 in the 1998-1999 cable distribution proceedings (Phase II). Notwithstanding, Item 23 contains such information.

42. Provide all documents which identify the retransmission of each Sports program listed in Exhibit IPG-2 by year.

Response to Request No. 42: The document request is not calculated to lead to the discovery of admissible evidence, consistent with the CRB Order of January 31, 2014 in

the 1998-1999 cable distribution proceedings (Phase II). Notwithstanding, Item 23 contains such information.

43. Provide all documents which identify the retransmission of each Devotional/Program Suppliers program listed in Exhibit IPG-2 by year.

Response to Request No. 43: Except as set forth in the General Objections stated above, IPG does not object to this request. See Item 23.

44. Provide all documents exchanged between IPG and MPAA-represented Program Suppliers in the 2000-2003 Cable Royalty Distribution Proceeding regarding the following Claimants: Cinemavault Releasing, Inc., Envoy Productions, Feed the Children, Inc., Granada Media, Great Plains National Instruction Library (cka Restructure Holding), Pacific Family Entertainment, Paradigm Picture Corporation, Promark Television, Inc., and Willie Wilson Productions, Inc.

Response to Request No. 44: The document request is not calculated to lead to the discovery of admissible evidence, consistent with the CRB Order of January 31, 2014 in the 1998-1999 cable distribution proceedings (Phase II).

45. Provide all documents exchanged between IPG and MPAA-represented Program Suppliers in this proceeding, i.e. all documents IPG produced to MPAA and all documents MPAA produced to IPG.

Response to Request No. 45: The document request is not calculated to lead to the discovery of admissible evidence, consistent with the CRB Order of January 31, 2014 in the 1998-1999 cable distribution proceedings (Phase II).

TESTIMONY OF LAURA ROBINSON, PH.D

1. Provide all documents, data, and source material that Dr. Robinson expressly considered that underlie, support, or form the basis of any and all facts, conclusions, and/or opinions contained in the Testimony.

Response to Request No. 1: Except as set forth in the General Objections stated above, IPG does not object to this request, subject to the caveat that IPG will produce documents that were expressly considered by the witness, consistent with the CRB Order of January 31, 2014 in the 1998-1999 cable distribution proceedings (Phase II).

2. Provide all documents underlying the statement: “I have not yet been provided with the identity of the retransmitted broadcasts claimed by the Non-IPG Claimants.” (Robinson Testimony at 2.)

Response to Request No. 2: Except as set forth in the General Objections stated above, IPG does not object to this request. No documents will be produced.

3. Provide all documents underlying the statement: “I have reviewed and analyzed voluminous data and information during the preparation of this report, including (i) data from the IPG on claimed titles and on satellite statements of account during 1999-2009, and (ii) TV Data (cka Tribune Media) providing 24/7 programming information regarding the broadcasts of distant signal stations during 1999-2009.” (Robinson Testimony at 3.)

Response to Request No. 3: Except as set forth in the General Objections stated above, IPG does not object to this request. See Items 20-23.

4. Provide all documents underlying the Summary of Opinions (Robinson Testimony at 3-5, paragraphs 8-9).

Response to Request No. 4: Except as set forth in the General Objections stated above, IPG does not object to this request. Certain of the statements are based on the expert knowledge and experience of Dr. Laura Robinson. See Item 24.

5. Provide all documents underlying the statement: “I have data on various indicia of the economic value of the retransmitted broadcasts. These data include the length in minutes of the retransmitted broadcasts, the time of day of the retransmitted broadcasts, and the number of persons distantly subscribing the stations broadcasting the claimed programs.” (Robinson Testimony at 5.)

Response to Request No. 5: Except as set forth in the General Objections stated above, IPG does not object to this request. See Items 21-23.

6. Provide all documents that underlie the conclusions set forth in Paragraph 11 of Dr. Robinson’s testimony, including the “claim to over three hundred thousand retransmitted broadcasts during 1999-2009”, ... compris[ing] over two hundred and fifteen thousand broadcast hours.” (Robinson Testimony at 5.)

Response to Request No. 6: Except as set forth in the General Objections stated above, IPG does not object to this request. See Item 23.

7. Provide all documents that underlie the statement that “various indicia of the economic value of the retransmitted broadcasts show that IPG’s retransmitted broadcast have values across the full range of observed values.” (Robinson Testimony at 5.)

Response to Request No. 7: Except as set forth in the General Objections stated above, IPG does not object to this request. See Item 23.

8. Provide all documents that underlie the statement: “One of the ways in which an analysis of relative market value can be distinguished from the analysis of market value is that it does not require knowledge of factors that are common among the broadcasts being valued and compared.” (Robinson Testimony at 6.)

Response to Request No. 8: Except as set forth in the General Objections stated above, IPG does not object to this request. The statements are based on the expert knowledge and experience of Dr. Laura Robinson. No documents will be produced.

9. Provide all documents that underlie the statement “For example, if broadcasts shown on stations with more distant subscribers are generally worth more than broadcasts shown on stations with fewer distant subscribers, it is not necessary to know exactly how the number of distant subscribers to a station relates to the value of a retransmitted broadcast to know that, based on this criteria, a broadcast retransmitted on a station with 100,000 distant subscribers is relatively more valuable than a broadcast retransmitted on a station with 10,000 distant subscribers.” (Robinson Testimony at 6.)

Response to Request No. 9: Except as set forth in the General Objections stated above, IPG does not object to this request. The statements are based on the expert knowledge and experience of Dr. Laura Robinson. No documents will be produced.

10. Provide all data from “IPG, TV Data, and Nielsen Media Research” that Dr. Robinson relied on in the Testimony. (Robinson Testimony at 8.)

Response to Request No. 10: Except as set forth in the General Objections stated above, IPG does not object to this request. See Items 20-23.

11. Provide all documents underlying the statement: “The IPG data include 4,319 program titles claimed by IPG in this matter.” (Robinson Testimony at 8.)

Response to Request No. 11: Except as set forth in the General Objections stated above, IPG does not object to this request. See Items 20, 23.

12. Provide all documents underlying the statement: “IPG data summarizing satellite statements of account and TV Data broadcast data both comprise information about stations that were distantly retransmitted by satellite system operators during 1999-2009, while the Nielsen data comprises summary viewership information for selected stations from 2000 to 2004. (Robinson Testimony at 8.)

Response to Request No. 12: Except as set forth in the General Objections stated above, IPG does not object to this request. See Items 21-23.

13. Provide all documents underlying the statement: “I merged the data on the IPG-claimed titles, the satellite statement of account information, the TV Data with broadcast information, and the Nielsen data on viewership. The resulting database (“1999-2009 Database”) allows me to analyze characteristics and value of IPG-claimed distantly retransmitted broadcasts during 1999-2009.” (Robinson Testimony at 10.)

Response to Request No. 13: Except as set forth in the General Objections stated above, IPG does not object to this request. See Item 23.

14. Provide all documents underlying the statement: “The analysis of relative value of IPG-claimed and Non-IPG claimed broadcasts includes comparison of various characteristics of such broadcasts: the number of broadcasts, the number of hours or quarter hours of broadcasts, and the number of distant subscribers to the station broadcasting the claimed title.” (Robinson Testimony at 10.)

Response to Request No. 14: Except as set forth in the General Objections stated above, IPG does not object to this request. The statements are based on the expert knowledge and experience of Dr. Laura Robinson, regarding an analysis that has yet to occur. No documents will be produced.

15. Provide all documents underlying Table 1. (Robinson Testimony at 11.)

Response to Request No. 15: Except as set forth in the General Objections stated above, IPG does not object to this request. See Items 20-23.

16. Provide all documents underlying the calculations in Paragraph 27 of Dr. Robinson’s Testimony. (Robinson Testimony at 11.)

Response to Request No. 16: Except as set forth in the General Objections stated above, IPG does not object to this request. See Items 20-23.

17. Provide all documents related to Dr. Robinson's program categorization of titles as Devotional, Program Supplier and Sports as set forth in Table 1. (Robinson Testimony at 11.)

Response to Request No. 17: Except as set forth in the General Objections stated above, IPG does not object to this request. See Item 20.

18. Provide all documents related to the selection of stations relied upon for the broadcasts of IPG-Claimed Titles in Table 1. (Robinson Testimony at 11.)

Response to Request No. 18: Except as set forth in the General Objections stated above, IPG does not object to this request. See Item 21.

19. Provide all documents underlying Table 2 and Exhibits IPG-4a and IPG-4b, and the statement: "IPG-claimed retransmitted broadcasts are shown on stations across the full range of distant subscribers." (Robinson Testimony at 12.)

Response to Request No. 19: Except as set forth in the General Objections stated above, IPG does not object to this request. See Items 21, 23.

20. Provide all documents underlying the statements in Paragraph 29 of Dr. Robinson's Testimony and calculations in Exhibit 6. (Robinson Testimony at 12-13).

Response to Request No. 20: Except as set forth in the General Objections stated above, IPG does not object to this request. See Items 21, 23.

21. Provide all documents underlying the statements in Paragraphs 31-32 of Dr. Robinson's Testimony and calculations in Exhibits IPG-5a and IPG-5b. (Robinson Testimony at 13-14).

Response to Request No. 21: Except as set forth in the General Objections stated above, IPG does not object to this request. See Items 23, 24 (Library of Congress ruling).

22. Provide all documents underlying the statement: "My conclusion that IPG's program titles have substantial market value is based on my analysis and evidence showing that (i) IPG claims a substantial number of distantly retransmitted titles, (ii) such retransmitted programs were retransmitted on a substantial number of occasions, (iii) such claimed broadcasts were retransmitted for a substantial number of hours, (iv) there are a substantial number of distant subscribers to the stations broadcasting the IPG-claimed titles being retransmitted by SSOs, and (v) IPG-claimed distantly retransmitted broadcasts

are distributed throughout the day including during periods of significant viewership across the United States.” (Robinson Testimony at 14-15.)

Response to Request No. 22: Except as set forth in the General Objections stated above, IPG does not object to this request. See Item 23.

23. Provide all documents underlying the statement: “I will also compare the characteristics of the claimed broadcasts. These characteristics provide indicia of economic value.” (Robinson Testimony at 15.)

Response to Request No. 23: Except as set forth in the General Objections stated above, IPG does not object to this request. The statements are based on the expert knowledge and experience of Dr. Laura Robinson, regarding an analysis that has yet to occur. No documents will be produced.

24. Provide all documents underlying the conclusions that “the more distant subscribers to the station broadcasting the claimed title,” and “the greater the viewership at the time of day the broadcast,” “the more value may be ascribed to the title.” (Robinson Testimony at 15.)

Response to Request No. 24: Except as set forth in the General Objections stated above, IPG does not object to this request. The statements are based on the expert knowledge and experience of Dr. Laura Robinson, regarding an analysis that has yet to occur. No documents will be produced.

25. Provide all documents underlying the statement: “I find that IPGs program titles have substantial market value.” (Robinson Testimony at 16.)

Response to Request No. 25: Except as set forth in the General Objections stated above, IPG does not object to this request. The statements are based on the expert knowledge and experience of Dr. Laura Robinson, regarding an analysis that has yet to occur. See Item 23.

26. To the extent not already provided in responding to the requests above, provide all documents underlying Exhibits IPG-4, IPG-5, and IPG-6.

Response to Request No. 26: Except as set forth in the General Objections stated above, IPG does not object to this request. All responsive documents have already been identified and produced.

RESPONSES TO FOLLOW-UP DOCUMENT REQUESTS

1. Produce all documents relating to written agreements between Envoy Productions and any of the following entities relating to any television programming claimed in these proceedings: Cinemavault Releasing, Promark Television, Granada Media, Great Plains National Instructional Library, Restructure Holdings LLC, Pacific Family Network, Pacific Family Entertainment, Promark Television, Paradigm Pictures Corp., TV Matters cka Film Matters, or Reel Media International. Include in your response copies of all correspondence between IPG and any Claimant or between any Claimants with respect to any agreement referenced in this request.

Response to Request No. 1: Except as set forth in the General Objections stated above, IPG does not object to this request. IPG does not currently have any responsive documents in its possession, custody or control. No documents will be produced.

2. Produce all documents relating to written agreements between Billy Graham Evangelistic Association and Reel Media International relating to any television programming claimed in these proceedings. Include in your response copies of all correspondence between IPG and any Claimant or between any Claimants with respect to any agreement referenced in this request.

Response to Request No. 2: Except as set forth in the General Objections stated above, IPG does not object to this request. IPG does not currently have any responsive documents in its possession, custody or control. No documents will be produced.

3. Produce all documents relating to written agreements between Feed the Children Inc., and Great Plains National Instructional Library relating to any television programming claimed in these proceedings. Include in your response copies of all correspondence between IPG and any Claimant or between any Claimants with respect to any agreement referenced in this request.

Response to Request No. 3: Except as set forth in the General Objections stated above, IPG does not object to this request. IPG does not currently have any responsive documents in its possession, custody or control. No documents will be produced.

4. Produce all documents relating to written agreements between Feed the Children Inc., and Pacific Family Entertainment relating to any television programming claimed in these proceedings. Include in your response copies of all correspondence between IPG and any Claimant or between any Claimants with respect to any agreement referenced in this request.

Response to Request No. 4: Except as set forth in the General Objections stated above, IPG does not object to this request. IPG does not currently have any responsive documents in its possession, custody or control. No documents will be produced.

5. For each program claimed by IPG in the Devotional category on behalf of any of the following Claimants, produce a representative exemplar of the program for each year the program is claimed. In the event no representative exemplars of the program can be located in the year for which it is claimed, then produce representative exemplars of the program for a year as reasonably proximate to the year in which it was claimed as can be found.

- a. IWV Media Group;
- b. Feed the Children, Inc.;
- c. Willie Wilson Productions;
- d. Envoy Productions and/or any of the following entities: Cinevault Releasing, Promark Television, Granada Media, Great Plains National Instructional Library, Restructure Holdings LLC, Pacific Family Network, Pacific Family Entertainment, Promark Television, Paradigm Pictures Corp., TV Matters cka Film Matters, or Reel Media International.

Response to Request No. 5: Objection. IPG objects on the grounds that the request is overburdensome, and not reasonably calculated to lead to the discovery of admissible evidence. IPG does not currently have any responsive exemplars in its possession, custody or control other than a single exemplar of the program “Feed the Children”, which was produced to the SDC in the 1998-1999 cable proceedings (Phase II). No documents will be produced.

6. Produce any correspondence relating to termination or attempted termination of IPG by any claimant that IPG claims in the Devotional category.

Response to Request No. 6: Except as set forth in the General Objections stated above, IPG does not object to this request. See document category no. 7.

7. Produce all correspondence between IPG and Warren Judd relating to any claim in the Devotional category or to IPG’s authority to represent any Claimant.

Response to Request No. 7: Objection. IPG objects on the grounds that the request is beyond the scope of documents required to be produced in these proceedings, and not reasonably calculated to lead to the discovery of admissible evidence. No documents will be produced.

8. As to each email produced by IPG in Item 6 for which only the first page was produced, produce the entire email, including all attachments.

Response to Request No. 8: Except as set forth in the General Objections stated above, IPG does not object to this request. To the extent that IPG retains such documents, they will be produced. See document category no. 6.

9. Produce the emails referenced in IPG 1136 and all replies to those emails.

Response to Request No. 9: Except as set forth in the General Objections stated above, IPG does not object to this request. To the extent that IPG retains such documents, they will be produced. See document category no. 6.

10. Produce all documents supporting IPG's categorization in Item 20 of programs claimed in the Devotional Claimants Phase I Category.

Response to Request No. 10: Except as set forth in the General Objections stated above, IPG does not object to this request. All responsive documents have already been identified and produced.

11. Produce all documents underlying Claimant Time Restrictions in Item 20.

Response to Request No. 11: Except as set forth in the General Objections stated above, IPG does not object to this request. All responsive documents have already been identified and produced.

12. Produce all documents underlying Program Time Restrictions in Item 20.

Response to Request No. 12: Except as set forth in the General Objections stated above, IPG does not object to this request. All responsive documents have already been identified and produced.

13. Produce all documents underlying Content Restrictions in Item 20.

Response to Request No. 13: Except as set forth in the General Objections stated above, IPG does not object to this request. All responsive documents have already been identified and produced.

14. Produce all documents underlying Territorial Restrictions in Item 20.

Response to Request No. 14: Except as set forth in the General Objections stated above, IPG does not object to this request. All responsive documents have already been identified and produced.

15. Produce the underlying raw data for the Nielsen distant viewership data files relied upon by Dr. Robinson, including the files identified as “niel00”, “niel01”, “niel02_reg_sta”, and “niel02_sup_sta”..

Response to Request No. 15: Except as set forth in the General Objections stated above, IPG does not object to this request. Notwithstanding, the files referenced by the SDC are currently the subject of a motion by the MPAA in order to determine the proprietary nature of such documents and their qualification as “Protected Materials”. No documents will be produced pending the CRB determination.

16. Produce the “finder’s fee” agreement between IPG and Brewer, Brewer, Anthony & Middlebrook.

Response to Request No. 16: Objection. The SDC already have in their possession the requested document, and the CRB has already ruled that issues pertaining thereto are beyond the authority of the CRB to adjudicate. No documents will be produced.

RESPONSES TO FOLLOW-UP DOCUMENT REQUESTS ON AMENDED DIRECT STATEMENT

1. Produce the underlying raw data for the Nielsen distant viewership data files relied upon by Dr. Robinson, including the files identified as “niel00”, “niel01”, “niel02_reg_sta”, and “niel02_sup_sta”, and “Nielsen.”

Response to Request No. 1: Except as set forth in the General Objections stated above, IPG does not object to this request. See Item 23.

2. Produce the data file “Bcast Qtr Hr 2000-2009.xlsx” which is characterized by Dr. Robinson as “Nielsen National Viewing Data for 2000-2009.”

Response to Request No. 2: Except as set forth in the General Objections stated above, IPG does not object to this request. See Item 23.

3. Produce all documents, including but not limited to agreements, emails and correspondence, between IPG and any person, including but not limited to David Joe and/or

representatives of Eagle Mountain International Church, Inc., d.b.a. Kenneth Copeland Ministries (“Kenneth Copeland Ministries”), Creflo Dollar Ministries (legally known as World Changers Church International, Inc.), Benny Hinn Ministries (legally known as World Healing Church International, Inc.), Jack Van Impe Ministries, and Willie Wilson Productions, regarding claims for these entities in the 2004-2009 cable and 1999-2009 satellite proceedings by All Global Media.

Response to Request No. 3: Objection. The document request is overly broad, and seeks documents beyond the scope of 37 C.F.R. Section 351.6 regarding claims by unrelated third parties. IPG does not have in its possession claims by “All Global Media”, nor to IPG’s knowledge does any correspondence exist between IPG and any of the listed entities regarding claims by “All Global Media”. No reference to any specific subject matter addressed in the request appears within IPG’s Amended Direct Statement, nor were any such types of documents in IPG’s possession, nor were any such documents relied on in connection with the Amended Direct Statement.

4. Produce all employment and copyright agreements between Kenneth Copeland Ministries and Kenneth Copeland, and between Kenneth Copeland Ministries and Gloria Copeland.

Response to Request No. 4: Objection. The document request is overly broad, and seeks documents beyond the scope of 37 C.F.R. Section 351.6. No reference to any specific subject matter addressed in the request appears within IPG’s Amended Direct Statement, nor were any such types of documents in IPG’s possession, nor were any such documents relied on in connection with the Amended Direct Statement.

5. Produce all documents, including agreements, emails and correspondence, regarding claims filed by IPG in these proceedings on behalf of Great Plains Instructional Educational Library cka Smarterville Inc. or Restructure Holdings LLC, including all documents relating to dissolution of Great Plains Instructional Educational Library and any transfer in ownership of claims between Great Plains Instructional Educational Library and Restructure Holdings LLC including, but not limited to, those made before, after, or in connection with dissolution.

Response to Request No. 5: Objection. The document request is overly broad, and seeks documents beyond the scope of 37 C.F.R. Section 351.6 regarding claims by unrelated third parties. No different than prior requests for “all agreements, emails and correspondence” between IPG and various parties, the request is overbroad. No reference to any specific subject matter addressed in the request appears within IPG’s Amended Direct Statement, nor were any such types of documents in IPG’s possession, nor were any such documents relied on in connection with the Amended Direct Statement.

IPG DOCUMENT CATEGORIES TO BE PRODUCED

Documents produced in hard copy:

1. Organizational filings for Worldwide Subsidy Group LLC (Texas).
2. Agreement of Assignment and Transfer of Assets of Worldwide Subsidy Group LLC (California).*
3. 1999-2009 claims for satellite retransmission royalties filed with U.S. Copyright Office.
4. Representation agreements between various parties and either Worldwide Subsidy Group LLC (California) or Worldwide Subsidy Group LLC (Texas).*
5. Confirmations of Engagement of IPG.
6. Correspondence between various parties and IPG regarding claimed program titles.*
7. Correspondence relating to termination or attempted termination of IPG.

Documents produced in electronic format:

20. IPG Summary of program titles prepared for 1999-2009 satellite and 2004-2009 cable proceedings (Phase II).*
21. IPG Summary of Satellite Statements of Account.*
22. TV Data raw data; WGN and WGNA broadcasts, and comparison.*
23. IPG satellite database and calculations thereon.*
24. Non-data documents relied on in Direct Statement by Dr. Laura Robinson.
25. Documents produced in connection with Amended Direct Statement.*
26. [Intentionally omitted.]

27. [Intentionally omitted.]
28. Documents produced to Motion Picture Association of America.* [produced in response to July 30, 2014 order.]
29. Exemplars of programs identified as in either the Devotional or Program Suppliers category. [produced in response to July 30, 2014 order.]
30. [Intentionally omitted.]
31. [Intentionally omitted.]
32. [Intentionally omitted.]
33. Documents in response to SDC follow-up request nos. 1-4. [to be produced in response to July 30, 2014 order.] [NOTE: No documents have been located, or are asserted to exist.]
34. Correspondence between IPG and Warren Judd.* [produced in response to July 30, 2014 order.]

*to be produced under proposed Protective Order

Respectfully submitted,

Dated: August 11, 2014

_____/s/_____
Brian D. Boydston, Esq.
California State Bar No. 155614

PICK & BOYDSTON, LLP
10786 Le Conte Ave.
Los Angeles, California 90024
Telephone: (213) 624-1996
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Email: brianb@ix.netcom.com

Attorneys for Independent Producers Group

CERTIFICATE OF SERVICE

I hereby certify that on this 11th day of August, 2014, a copy of the foregoing was sent by email and overnight mail to the parties listed on the attached Service List.

_____/s/_____
Brian D. Boydston

DEVOTIONAL CLAIMANTS:

Clifford M. Harrington
Pillsbury, Winthrop, et al.
P.O. Box 57197
Washington, D.C. 20036-9997

Exhibit 9

LIBRARY OF CONGRESS

UNITED STATES COPYRIGHT ROYALTY JUDGES

The Library of Congress

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IN THE MATTER OF:) Docket No.
) 2012-6 CRB CD
DISTRIBUTION OF THE 2004-2009) (2004-2009)
CABLE ROYALTY FUNDS) (Phase II)

-----X
IN THE MATTER OF:) Docket No.
) 2012-7 CRB SD
DISTRIBUTION OF THE 1999-2009) (1999-2009)
CABLE ROYALTY FUNDS) (Phase II)

-----X

Pages: 1 through 266

Place: Washington, D.C.

Date: April 9, 2018

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1 UNITED STATES COPYRIGHT ROYALTY JUDGES

2 The Library of Congress

3 Washington, D.C.

4 -----X
 5 IN THE MATTER OF:) Docket No.
 6 DISTRIBUTION OF THE 2004-2009) 2012-6 CRB CD
 7 CABLE ROYALTY FUNDS) (2004-2009)
 8) (Phase II)

9 -----X
 10 IN THE MATTER OF:) Docket No.
 11 DISTRIBUTION OF THE 1999-2009) 2012-7 CRB SD
 12 CABLE ROYALTY FUNDS) (1999-2009)
 13) (Phase II)

14 -----X

15 BEFORE: THE HONORABLE SUZANNE BARNETT

16 THE HONORABLE JESSE M. FEDER

17 THE HONORABLE DAVID R. STRICKLER

18

19 Library of Congress

20 Madison Building

21 101 Independence Avenue, S.E.

22 Washington, D.C.

23 April 9, 2018

24

25 9:33 a.m.

VOLUME I

Reported by:

Karen Brynteson, RMR, CRR, FAPR

Heritage Reporting Corporation

1 JUDGE FEDER: Mr. Sanders, for
2 markets, are you using that interchangeably
3 with DMAs?

4 THE WITNESS: That is correct.

5 JUDGE FEDER: Thank you.

6 BY MR. MacLEAN:

7 Q. Now, the Judges have raised a concern
8 about the fact that in our original
9 presentation, the last time we were here in
10 this proceeding, you only had RODPs, reports on
11 Devotional programming, for the February sweep
12 months in years 1999 through 2003.

13 And we've already heard from Dr. Erdem
14 about some of the analyses that he has
15 performed, but how would you respond -- what
16 have you done to respond to this concern?

17 A. Well, first of all, I participated in
18 an effort to try and find additional data, was
19 involved in a number of conference calls with
20 Nielsen, and I'm just thinking possibly three
21 calls with at least three different executives
22 from Nielsen, and was informed that additional
23 data from that source was just simply not
24 available.

25 However, the SDC did reach out to its

1 various members and one of them did locate an
2 additional eight books for that time period --
3 I'm sorry, eight summary pages for that time
4 period. As a consequence, then, the data in
5 those earlier years was made much more robust.
6 And looking over the entire period in question,
7 I think that there were -- the sample now
8 includes 85, roughly 85 percent of the -- of
9 the quarters in question.

10 Q. And you, of course, have reviewed
11 Dr. Erdem's analyses with regard to the tests
12 that he has done on this local viewing data?

13 A. Yes.

14 Q. Do you have any remaining concerns
15 about the absence of full Nielsen RODPs for the
16 -- in some of the quarters during the time
17 period of 1999 through 2003?

18 A. I don't. And, if anything, I guess as
19 they're supposed to, the sophisticated, you
20 know, statistical analyses just confirm what
21 might be visually obvious, that going from
22 quarter to quarter, there don't tend to be
23 large gyrations in the performance of a
24 particular program.

25 Q. The Judges have also raised a concern

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DISTRIBUTION OF THE 2004-2009) (2004-2009)
CABLE ROYALTY FUNDS) (Phase II)

-----X
IN THE MATTER OF:) Docket No.
) 2012-7 CRB SD
DISTRIBUTION OF THE 1999-2009) (1999-2009)
CABLE ROYALTY FUNDS) (Phase II)

-----X

Pages: 267 through 493

Place: Washington, D.C.

Date: April 10, 2018

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 7 CABLE ROYALTY FUNDS) (2004-2009)
 8) (Phase II)

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 12 CABLE ROYALTY FUNDS) (1999-2009)
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15 BEFORE: THE HONORABLE SUZANNE BARNETT

16 THE HONORABLE JESSE M. FEDER

17 THE HONORABLE DAVID R. STRICKLER

18

19 Library of Congress

20 Madison Building

21 101 Independence Avenue, S.E.

22 Washington, D.C.

23 April 10, 2018

24

25 9:33 a.m.

VOLUME II

26

27 Reported by: Karen Brynteson, RMR, CRR, FAPR

28

1 would be representative and as a random sample
2 for that piece of it. So, yes, if there were
3 800 cable homes, it should be a random
4 distribution of those cable households.

5 BY MS. PLOVNICK:

6 Q. Now, Mr. Lindstrom, you mentioned that
7 the National People Meter custom analyses that
8 you did were for 2008 and 2009. Why did you
9 only analyze those years?

10 A. What ended up happening in this case
11 was that Nielsen had gone through a bit of an
12 evolution. As I said, we had shifted around,
13 we started incorporating the local people
14 meters into the national sample. There had
15 been a lot of things that have occurred since
16 that period of time, which was, you know, ten
17 years ago.

18 In the course of it, there had been a
19 lot of systems that, in fact, were no longer
20 supported and no longer available to be able to
21 be used. There were also issues in terms of
22 the data sets and data retention, and so that
23 it made it difficult to, in fact, go back
24 beyond what we produced for 2008-2009 to be
25 able to do the data.

1 JUDGE STRICKLER: Was it difficult or
2 impossible?

3 THE WITNESS: I will qualify that
4 slightly in going I think it could be done
5 given time and money, but impossible given the
6 time and money that could be done with what the
7 Judges were looking for, for this proceeding.

8 It would have been a very timely
9 effort in order to re-create the software to
10 allow it to be done.

11 JUDGE STRICKLER: By "timely," you
12 mean time-consuming?

13 THE WITNESS: Time-consuming, yeah.
14 Sorry.

15 BY MS. PLOVNICK:

16 Q. Now, I want to talk about the third
17 type of data Nielsen provided for this
18 proceeding, which you said was local ratings
19 data. So what is local ratings data?

20 A. Nielsen produces reports for each
21 sweep for 200 some odd markets across the
22 country. The entire United States is divided
23 up into those markets. And these are the
24 reports that are issued for each of those local
25 markets and is used for the buying and selling

Proof of Delivery

I hereby certify that on Friday, April 12, 2019 I provided a true and correct copy of the Motion of the Settling Devotional Claimants for Relief from Protective Order to the following:

MPAA-Represented Program Suppliers, represented by Lucy H Plovnick served via Electronic Service at lh@msk.com

Independent Producers Group (IPG), represented by Brian D Boydston served via Electronic Service at brianb@ix.netcom.com

Signed: /s/ Michael A Warley